

A "Crutch to Assist in Gaining an Honest Living": Dispensary
Shopkeeping by Scottish General Practitioners and the Responses of the
British Medical Elite, ca. 1852-1911

Bulletin of the History of Medicine 86 (1) Spring 2012, 1-36

jacqueline jenkinson

summary: This article examines the practice among general practitioners in Scotland of keeping shops for dispensary and retail purposes in the late nineteenth century. It demonstrates that while doctors kept such open shops in these areas in order to subsidize their income in a crowded medical market, they argued that shopkeeping allowed them to provide medical care in communities where the population was otherwise too poor to pay for such care. The article compares shopkeeping to medical "covering" and assesses the medical hierarchy's reactions to shopkeeping doctors via disciplinary actions taken against some of these doctors by the General Medical Council (GMC). These actions provoked an organized protest among hundreds of doctors (some of it channeled through the British Medical Association), which challenged the methods of the GMC in determining acceptable professional medical standards.

Keywords: general practitioners, professionalization, Scotland, history, dispensing, medical elite, BMA, GMC, nineteenth century

This article examines why hundreds of general practitioners around Scotland continued the practice—common throughout Britain in the late eighteenth and early nineteenth centuries—of keeping "open shop" for

I would like to acknowledge the support and cooperation of the archivists and librarians of the following institutions: Archive of the Royal College of Physicians and Surgeons, Glasgow; Mitchell Library, Glasgow; Glasgow University Library Special Collections; and Edinburgh University Centre for Research Collections.

1. Irvine Loudon, *Medical Care and the General Practitioner, 1750-1950* (Oxford: Clarendon Press, 1986), 68-69.
1 Bull. Hist. Med., 2012, 86: 1-36

jacqueline jenkinson

drug dispensing and general retail in the late nineteenth and early twentieth centuries. Shopkeeping doctors faced hostility from the London-based medical hierarchy and the national medical press for retarding the status of the wider profession. Moreover, doctors who employed unqualified assistants to dispense for them when they were on call risked court action in prosecutions raised by the Pharmaceutical Society of Great Britain for infringement of the 1868 and 1869 Pharmacy Acts. The assistants of more than forty general practitioners were prosecuted circa 1897-1900. Ultimately, shopkeeping doctors faced the prospect of being struck off the Medical Register for "infamous conduct in a professional respect" by the General Medical Council, the profession's self-governing disciplinary body, which fully supported the Pharmaceutical Society's prosecutions and issued a warning notice to the whole profession respecting the employment of unqualified dispensing assistants in December 1901.

The decision to keep a store for drug retail was one taken by many British general practitioners resigned to practicing in low-income areas by the high level of competition in the medical profession evident by the late nineteenth century, which has been outlined in the work of Anne Digby.² The issue was one of economic necessity (particularly in Scotland),³ yet groups of shopkeeping doctors also argued that without supplementing their income in such a way they could not afford to practice in poor urban locations and the sick in these areas would go without qualified medical care.

The example of shopkeeping Scottish doctors is here used to explore the realities of medical practice in the later nineteenth and early twentieth centuries, a period when general practitioners were being pressured to conform to a professional ideal by the medical hierarchy. Employing unqualified assistants to dispense controlled drugs when the practitioner was absent was comparable to the use by doctors of the unqualified to "cover" medical practice, an issue that provoked General Medical Council intervention in several areas of Britain around this time.

The difficulties encountered in pursuing a medical career in this period were not restricted to Britain. In the United States, according to Duffy, the "vast majority" of doctors in an overcrowded profession diversified by running a farm or business in addition to the small income derived from medical practice. Sometimes even then produce or personal service

2. Anne Digby, *Making a Medical Living: Doctors and Patients in the English Market for Medicine, 1720-1911* (Cambridge, UK: Cambridge University Press, 1994), 131, 165.

3. According to Loudon, "[T]he poverty of the general practitioner in Scotland was proverbial." Loudon, *Medical Care and the General Practitioner* (n. 1), 258.

Dispensary Shopkeeping by Scottish General Practitioners replaced payment by hard cash in small towns and rural areas.⁴ While shopkeeping doctors in Britain were prevented by their involvement in trade from applying for fellowship of the prestigious medical licensing colleges, in the United States the elite in the post-Civil War era sought to dissociate themselves from the rank and file of the profession through the formation of exclusive medical societies, such as the thirty-four-member Medical and Surgical Society of New York.⁵

Fears over an overcrowded medical profession forcing down income and retarding the doctors' status were widespread around Europe. In Germany and Belgium a temporary reduction in the number of qualified medical practitioners was achieved by the mid-nineteenth century as a result of tougher regulations for practice, which effectively restricted professional entry to all but medical graduates by the 1830s and 1840s. By the 1890s, a university medical degree was the only accepted qualification for medical practice in much of continental Europe.⁶

In exploring shopkeeping as an income source for British general practitioners, the article aims to augment recent historiography of medical professionalization that has seen the careers and concerns of family doctors come to the fore through the works of Digby and Crowther and Dupree, respectively on medical incomes and via prosopographical research on career pathways. However, there is limited reference to shopkeeping by general practitioners in these revisionist works, with only Digby making passing allusion to this aspect of general practitioner endeavor. More traditional work on the professionalization of British medicine has followed a Whig approach,⁷ identifying significant medico-political milestones in the progress of the profession from the introduction of the 1858 Medical Act to the struggle with the government over the passage

4. John Duffy, *The Healers: The Rise of the Medical Establishment* (New York: McGraw-Hill, 1976), 177-78.

5. Paul Starr, *The Social Transformation of American Medicine* (New York: Basic Books, 1982), 89.

6. Deborah Brunton, *Medicine Transformed: Health, Disease and Society in Europe 1800-1930* (Manchester: Manchester University Press, 2004), 122.

7. Noel and José Parry, *The Rise of the Medical Profession: A Study of Collective Social Mobility* (London: Croom Helm, 1976); Mildred J. Peterson, *The Medical Profession in Mid-Victorian London* (Berkeley: University of California Press, 1978); Ivan Waddington, *The Medical Profession in the Industrial Revolution* (Dublin: Gill and Macmillan, 1984). For national health insurance, see Bentley B. Gilbert, *The Evolution of National Insurance in Great Britain: The Origins of the Welfare State* (London: Joseph, 1966) and Frank Honigsbaum, *Health, Happiness and Security: The Creation of the National Health Service* (London: Routledge, 1989).

jacqueline jenkins

of National Health Insurance legislation in 1911.⁸ This study of the prolonged pursuit of shopkeeping by urban Scottish general practitioners, therefore, also presents a challenge to the traditional portrayal of an emerging medical profession that grew in status over time, and instead places the emphasis on a group well described by Crowther and Dupree as "the invisible general practitioner."⁹

The article also explores how far the long-standing link with retail disposing [should read dispensing] was a consequence of a distinctively Scottish approach to medical education and practice. The Scottish system of medical education, which dated from the seventeenth century, produced doctors trained in medicine, surgery, midwifery, and pharmacy. This broad curriculum was maintained throughout the period of dominance by the medical schools at Edinburgh and Glasgow over British medical education, which began in the late eighteenth and continued into the nineteenth century.¹⁰ By the time broader training became widespread around Britain in the early nineteenth century, Scottish general practitioners had combined consultation with prescribing and pharmaceutical dispensing for more than a century.¹¹ This article also demonstrates that Scottish general practitioners who sold retail medicines over the counter as part of their daily practice (and employed unqualified persons to assist them) viewed keeping shop as an integral part of their income and over the course of a sixty-year period strongly resisted any opposition to this arrangement. Although evident around Scotland and in other parts of Britain, the practice was prevalent in the west of Scotland, where this revenue source was particularly important to poorer practitioners in large, poverty-stricken urban areas.¹²

8. See Anne Crowther and Marguerite Dupree, "The Invisible General Practitioner: The Careers of Scottish Medical Students in the Late Nineteenth Century," *Bull. Hist. Med.* 70 (1996): 387-413; Marguerite Dupree and M. Anne Crowther, "A Profile of the Medical Profession in Scotland in the Early Twentieth Century: The Medical Directory as a Historical Source," *Bull. Hist. Med.* 65 (1991): 209-33; Anne Digby, *The Evolution of British General Practice 1850-1948* (Oxford: Oxford University Press, 1999), 66; Digby, *Making a Medical Living* (n. 2).
9. Crowther and Dupree, "Invisible General Practitioner" (n. 8), 387.
10. Helen Dingwall, *A History of Scottish Medicine: Themes and Influences* (Edinburgh: Edinburgh University Press, 2003), 196-98.
11. For a discussion of the dispensing activities of general practitioners (mainly limited to the English context), see Loudon, *Medical Care and the General Practitioner* (n. 1), 129-51. See also S. W. F. Holloway, *Royal Pharmaceutical Society of Great Britain 1841-1991: A Political and Social History* (London: Pharmaceutical Press, 1991), 257, 282.
12. Unattributed article in *Glasgow Herald*, December 20, 1900, accessed online at nineteenth-century British Library Newspapers, <http://find.galegroup.com.ezproxy.stir.ac.uk/bncn/publicationByLocation.do>, on January 17, 2012.

Dispensary Shopkeeping by Scottish General Practitioners

A further aspect of this article is to examine the pressure group activities undertaken by Scottish general practitioners in defense of their rights in drug dispensing and, by tradition, retail. Hundreds of Scottish doctors organized and protested in two distinct phases over this period: In the 1850s and 1860s they campaigned to amend pharmaceutical legislation that threatened their legal right to dispense drugs. At the very end of the century they challenged court prosecutions brought by the Pharmaceutical Society of Great Britain against the sale of poisons by their unqualified assistants.¹³ Scottish doctors became involved in this organized protest activity for self-interested financial reasons; however, they also sought to uphold the tradition of training in both surgery and pharmacy in a single institution available in the Scottish education system. In this respect they gained support from the Scottish medical colleges in the first phase of protests. By the beginning of the twentieth century this backing was limited and the general practitioners involved felt their views were not represented by the hierarchy of the medical colleges. In the hope of gaining greater influence, they campaigned, albeit unsuccessfully, to win increased representation on the British profession's governing body, the General Medical Council, which, as noted by Smith, controlled "acceptable standards of professional conduct and medical ethics."¹⁴

[close gap between paragraphs here?]

According to Peterson it was a "commonplace of medical history" that the medical profession across the British Isles was separated into physicians, surgeons, and apothecaries and that these three divisions "defined the social structure of the profession."¹⁵ Each order was governed by individual London-based corporations: the Royal College of Physicians, the College of Surgeons, and the Worshipful Society of Apothecaries. Divisions in status were perpetuated through differing levels of college membership, most often between fellows and licentiates; only the former enjoyed benefits such as tax and military service exemptions and held full voting rights by which they controlled internal decision-making processes. Social stratification was maintained while the tripartite structure of the profession evolved, as apothecaries and all but a small group of pure surgeons

13. See, e.g., Minutes of Glasgow Southern Medical Society, December 3, 1868, archive of the Royal College of Physicians and Surgeons, Glasgow (RCPSG) 73/1/6; and Minutes of the Conjoint Committee of the Glasgow Eastern and Southern Medical Societies and the Glasgow and West of Scotland Branch of the BMA, June 14, 1901, RCPSG 73/1/18.

14. Russell G. Smith, "The Development of Ethical Guidance for Medical Practitioners by the General Medical Council," *Med. Hist.* 37 (1993): 56-67, quotation on 56.

15. Peterson, *Medical Profession* (n. 7), 6.

jacqueline jenkins

merged into a professional class initially known as "surgeon apothecaries" and, from around the 1830s, as general practitioners. General practitioner status was boosted by the requirement for registration following the passage of the 1858 Medical Act; however, the emerging consultant class of physicians and surgeons dominated the fellowship of the medical licensing colleges.¹⁶

While this picture holds good for parts of the British Isles, few historians examining the development of the British medical profession and the continuity of status-based division have considered the different situation in Scotland. In Edinburgh, the fusion of surgeon and apothecary duties was achieved by the mid-seventeenth century via broad training offered at the Royal College of Surgeons of Edinburgh. The Faculty of Physicians and Surgeons in Glasgow, the medical licensing body for the west of Scotland, also provided diplomas for graduate physicians and instruction and examination in anatomy, surgery, botany, and pharmacy for its surgeon members from its foundation in 1599. After the reforms contained in the 1858 Medical Act, Scottish licensing colleges again took the lead, and from 1859 general practitioners who obtained the double qualification of the licentiate of the Royal College of Physicians, Edinburgh, with either the licentiate of the Royal College of Surgeons, Edinburgh, or the Faculty of Physicians and Surgeons, Glasgow, could practice all branches of the profession in any part of the United Kingdom. Thus, Scottish-based medical training facilitated the creation of a cohesive general practitioner sector, which was unmatched by training elsewhere in the British Isles until the passage of the 1886 Medical Act Amendment Act, which made it mandatory for all practitioners to qualify in medicine, as well as surgery and midwifery, rather than in only one of these areas, for practice throughout Britain.

When faced with pharmacy legislation that seemed to target their rights in this area, hundreds of Scottish general practitioners organized and protested against the threat to restrict their ability to dispense and retail drugs. Exceptionally, in the mid-nineteenth century, the elite of the Scottish profession (made up of the physicians and surgeons who constituted the fellowship of the Scottish medical licensing colleges and who also controlled university medical appointments), were also willing to act to preserve and protect the pharmacy rights of doctors enshrined in the curriculum of the colleges and university medical schools. This stance benefited shopkeeping general practitioners who were licentiates of the colleges. On two occasions Scottish licensing colleges intervened on

16. Waddington, *Medical Profession* (n. 7), 21-22.

Dispensary Shopkeeping by Scottish General Practitioners

behalf of their licentiates during the passage of new legislation governing rights to dispense restricted drugs. In 1852, a Pharmacy Bill that sought to regulate the qualifications and conduct of pharmaceutical chemists was sent for comment by its sponsor, Jacob Bell MP, to the medical licensing colleges around Britain. On receipt of the bill in March 1852, Dr. James Watson, president of the Faculty of Physicians and Surgeons in Glasgow, informed a meeting that "the measure interfered considerably with the privileges of the Faculty."¹⁷ The two Scottish colleges that issued surgical licenses actively sought reassurance that the training and qualifications of Scottish general practitioners in pharmacy would not be challenged. The prospect of making pharmaceutical dispensing subject to an act of parliament at a time before the medical profession was formally regulated left doctors feeling vulnerable, particularly those who conducted retail dispensaries alongside their private surgeries. It also threatened the direct income from private practice of this same class of practitioners since general practitioners feared that raising the public profile of pharmacy would encourage the sick poor to consult their local chemist for advice as well as medication rather than pay a doctor's fee. In poor urban areas much of a doctor's income was derived from individual consultations and the sale and dispensing of drugs to the patient. According to Loudon dispensing medicine accounted for three-quarters of a general practitioner's income into the nineteenth century.¹⁸

The Glasgow Faculty of Physicians and Surgeons and the Royal College of Surgeons of Edinburgh petitioned against the bill—according to Holloway these were the only 2 petitions against, and there were 558 in favor.¹⁹ Continued pressure from these two Scottish colleges, combined with support from the Incorporated Society of Apothecaries, forced changes in the bill at its committee stage in the House of Commons. Glasgow Faculty President Watson appeared before the committee in May 1852. By June, Watson reported back to the Glasgow Faculty that, as amended, the bill would be "perfectly harmless as far as the Medical Corporations were concerned" and that he had heard formally from the Edinburgh College of Surgeons that it had accepted the bill in its altered form.²⁰ It is

17. Minutes of the Faculty of Physicians and Surgeons, Glasgow, March 1, 1852, RCPSG

1/1/8 (1849-59).

18. Irvine Loudon, "The Vile Race of Quacks with Which This Country Is Infested,"

in *Medical Fringe and Medical Orthodoxy 1750-1850*, ed. William F. Bynum and Roy Porter

(London: Croom Helm, 1986), 106-28, quotation on 122.

19. Holloway, *Royal Pharmaceutical Society* (n. 11), 165.

20. Minutes of the Faculty of Physicians and Surgeons, Glasgow, June 7, 1852.

jacqueline jenkinson

no surprise that the three British medical corporations concerned with licensing dispensing general practitioners opposed the bill. According to Pharmaceutical Society historian Holloway, the bill was emasculated in order to protect general medical practice: "The general practitioner wanted to have his cake and eat it. He wanted to claim the status and income of a professional man but retain the right to supply medicines to his patients and even to keep open shop for the sale of drugs."²¹

Debate on the competing rights of chemists and doctors to dispense medicines reemerged following the introduction of the 1868 Pharmacy Act, which sought to protect the rights of duly qualified pharmacists against nonprofessionals and was chiefly directed against the rise of branch stores of retail chemists. The 1868 legislation also contained a clause limiting the sale of restricted poisons to medical practitioners who

obtained the license of the London-based Incorporated Society of Apothecaries.

Yet licentiates of the Scottish medical colleges did not require an additional license from Apothecaries Hall in London since a pharmacy qualification was an integral part of Scottish medical instruction. Few Scottish qualified practitioners obtained medical qualifications outside Scotland. Dupree and Crowther have shown that as late as 1911, only 4 percent of Scottish-qualified doctors practicing in Scotland had taken an additional degree elsewhere in the United Kingdom.²² Hence, this legislation threatened to impact heavily on Scottish-trained doctors who practiced in Scotland, forcing them to obtain an additional qualification if they wished to retain dispensing rights.

The new arrangements proposed by the 1868 Pharmacy Act provoked three politically active Scottish medical societies to coordinate general practitioners' protests against this perceived threat to their livelihood.

These three societies were headed by members of the Glasgow Southern Medical Society, a group set up by general practitioners in 1844 to provide

a forum for further education and professional debate. The other two societies involved were the politically minded Scottish Midland and Western Medical Association, a society that drew members from throughout the profession and from a wide catchment area in west and central Scotland, and the Glasgow Faculty of Medicine, established in 1825 to provide ordinary general practitioners with an educational and social alternative to the expensive fellowship of the Faculty of Physicians and Surgeons of Glasgow.

21. Holloway, *Royal Pharmaceutical Society* (n. 11), 174.

22. Dupree and Crowther, "Profile of the Medical Profession in Scotland" (n. 8), 221-22.

Dispensary Shopkeeping by Scottish General Practitioners

Believing the Pharmacy Act of 1868 challenged the faculty regulations that allowed its licentiates dispensing privileges, representatives of the three local societies lobbied the faculty to act on their behalf. 23 The committee of the three Glasgow societies also contacted the government directly, requesting that the Lord Advocate, Scotland's top legal administrator, Sir James Moncrieff, intervene to prevent any proceedings against them in the pursuit of their duty and for the continued privilege to "compound and dispense medicines."²⁴ In support of its licentiates who kept retail drug stores, or, more likely, sensing a direct challenge to its ancient licensing authority, the council of the Glasgow Faculty of Physicians and Surgeons sent a memorial to Lord Moncrieff in protest against "some points in the 'Pharmacy Act, 1868' which press severely and as it seems to the Faculty somewhat unjustly on the profession in Scotland."²⁵ It continued,

As may be well known to your lordship there are in the county districts of Scotland registered medical men, including Licentiates of this Faculty, who are almost compelled by the exigencies of their position to keep an "open shop" for the sale of drugs there being in many thinly peopled districts no other way by which the public could be served.²⁶

The memorial concluded by requesting that a door should be "left open" for Scottish general practitioners to sell scheduled poisons through the passage of a new "small" bill replacing the words "legally qualified apothecary" with "regular medical practitioner."²⁷ Lord Moncrieff replied noting he was "sensible of the handicap complained of" and requesting that the council of the faculty come up with a form of words acceptable to them to be put into a new piece of legislation.²⁸ The Glasgow faculty's protest was successful, and within a few months its minutes recorded that the new act had overcome all the objections they had regarding the 1868 act.²⁹ The follow-up 1869 Pharmacy Act allowed qualified doctors, but not their unqualified assistants, to dispense scheduled poisons. This was a partial victory for shopkeeping doctors since such assistants were often left to tend to the dispensary shop for most of the day when the doctor was on call.

23. Glasgow Southern Medical Society, Minute Book, October 29, 1868, RCPSG 73/1/6.

24. Glasgow Southern Medical Society, Minute Book, December 3, 1868.

25. Glasgow Faculty of Physicians and Surgeons, Minute Book, December 7, 1868, RCPSG 1/1/9 (1859-71).

26. Ibid.

27. Ibid.

28. Glasgow Faculty of Physicians and Surgeons, Minute Book, January 4, 1869.

29. Glasgow Faculty of Physicians and Surgeons, Minute Book, June 7, 1869.

10 jacqueline jenkinson

The actions of the Scottish medical licensing colleges and several medical societies to defend the rights of doctors who conducted pharmaceutical dispensing in the 1850s and 1860s are at odds with Peterson's view of the capital's medical practitioners in this period: "Professional associations made repeated attempts to discourage dispensing practice."³⁰

Despite the intervention of the council of the faculty regarding dispensing privileges in 1852 and 1868, the campaign mounted by Scottish general practitioners to preserve their right to keep open shop was perceived to perpetuate status-based divisions in the profession. The association with trade provoked strong disapproval among the profession's hierarchy. Fellowship of the licensing colleges was exclusive; additionally, the Glasgow Faculty and the Royal Colleges of Physicians and of Surgeons in Edinburgh explicitly excluded shopkeeping doctors from their fellowship.³¹ Division based on rank in society rather than level of professional training has been characterized by Waddington as "status professionalization," which medical reformers hoped was on the wane in favor of "occupational professionalization" based on level of training and regular qualifications.³² Even though operating a store for dispensing and general retail perpetuated a link with trade out of step with the activities of a duly-qualified professional, well-qualified Scottish general practitioners with a broad-based medical training kept open shops by virtue of training and tradition. Keeping open shop also allowed general practitioners to set up and to maintain practices in remote rural spots and also in poverty-stricken urban areas. The important service provided to the urban poor by the doctor's shop was highlighted in a speech by the president of the Glasgow Southern Medical Society, Robert Forrest Sr., in his annual address for 1872, which was recorded in the minutes:

In a city like Glasgow with so many poor . . . drug shops . . . were indispensable; moreover he contended that as many young medical men when beginning practice were destitute of pecuniary means, it was quite legitimate in them [sic] to make an open dispensary a kind of "crutch" to assist in gaining an honest living.³³

The claims by Forrest and other medical practitioners to be providing subsidized health care for the poor by generating an alternative income

30. Peterson, *Medical Profession* (n. 7), 226.

31. Minutes of Glasgow Southern Medical Society, October 31, 1872, RCPSC 73/1/6;

Walter Rivington, *The Medical Profession of the United Kingdom* (Dublin: Fannin and Co., 1888), 510, 564.

32. Waddington, *Medical Profession* (n. 7), chapt. 1, 9-52, *passim*.

33. Glasgow Southern Medical Society, *Minute Book*, October 31, 1872.

Dispensary Shopkeeping by Scottish General Practitioners 11

source from their shops held some truth—they also formed a useful counterweight

to those who criticized the trade element in these transactions. This public medical function persisted into the twentieth century. Doctors'

retail dispensing shops were identified as serving an ongoing purpose in the community. A local newspaper in 1902 described such stores as "a decided boon to the working classes in a big centre like Glasgow."³⁴ Diversification,

whether it was keeping a shop for dispensing and retail, securing local public health appointments, or accepting company insurance medical refereeing posts, was a strategy pursued by general practitioners faced with increased competition due to the "striking increase in the supply of

doctors" in the second half of the nineteenth century.³⁵ For example, nearly 60 percent of the 3,958 Scottish respondents recorded in the 1911 Medical Directory who gave details about their occupations listed two or more appointments.³⁶ According to Dupree and Crowther, most Scottish doctors at this period expected to take up several local medical appointments

in addition to medical examining work for private companies and industries to supplement their incomes.³⁷ Like keeping a retail drug shop,

these posts maximized income sources beyond consultation fees.

Retail dispensing in urban areas occurred elsewhere around the British Isles. Digby has referred to the existence of the "slum 'doctor's-shop'" in

Wales, using evidence from a Cardiff general practice in 1884 to describe premises not unlike a corner store where ". . . proprietary mixtures were sold over the counter, with accompanying advice given in public."³⁸

Moreover, writing on the medical profession in 1888, Walter Rivington, surgeon at the London Hospital, divided general practitioners into dispensing and nondispensing "orders." Rivington vividly identified "surgeon chemists" as

The red-bottle and blue bottle practitioners who combine the work of medical men with the retail business of a chemist. An open shop is kept with glass cases containing tooth brushes, nail brushes, patent medicines, seidlitz powders, Eno's fruit salt, soap, scents, delectable lozenges, chest protectors, and feeding bottles.³⁹

Such stores were also in evidence in the north of England. In January 1899

an inquest was held at Heaton Norris (near Stockport in Lancashire), in which a mistake by a doctor's unqualified dispenser resulted in a

34. Evening Times (Glasgow), February 18, 1902, 2.

35. Digby, Evolution of British General Practice (n. 8), 66.

36. Dupree and Crowther, "Profile of the Medical Profession in Scotland" (n. 8), 224.

37. Ibid., 232.
38. Digby, *Evolution of British General Practice* (n. 8), 231.
39. Rivington, *Medical Profession* (n. 31), 279.

12 jacqueline jenkinson

patient's death. This fatal incident prompted a question in parliament by *Major Rasch, MP* for southeast Essex, to the government on whether it was not illegal for doctors to employ unqualified assistants to dispense poisons. Education spokesperson Sir John Gorst *replied that* the government had been in communication with the General Medical Council on the subject.⁴⁰ [please take out unnecessary italics which have crept in to this few lines]

Additional evidence for shopkeeping among English doctors is supplied in a petition from Scottish licentiates to the Royal College of Physicians and Surgeons of Glasgow in 1902, which noted that "in some parts of England . . . it is held by many to be impossible to get together or carry on a practice without . . . such sale of drugs."⁴¹ However, the exceptionality of continued retail shopkeeping elsewhere in the British Isles may explain why there was no record of concerted activity by general practitioners beyond Scotland to preserve this traditional income source. Digby has even suggested that the doctor's shop was losing its retail function by the mid-nineteenth century and was no longer the norm, although into the twentieth century some shop designs, including counters to divide doctor from patient, were retained in old-fashioned surgeries.⁴² This may have been closer to the picture for England and Wales, where the question of whether doctors were permitted to employ unqualified assistants to dispense controlled drugs when they were not on the premises was legally resolved earlier than in Scotland. In 1890, court judgments, plus a verdict in the House of Lords, ruled dispensing of scheduled poisons by an unqualified assistant, without direct professional supervision, illegal in England and Wales. However, at that point, no test case had been brought before a higher Scottish court to determine Scots law in the matter.⁴³

[close gap between paragraphs here?]

Following the Scottish medical profession's successful defense of the right of doctors to keep retail shops for drug dispensing in the 1850s and 1860s, the issue was reignited in the late nineteenth century. The Pharmaceutical Society of Great Britain, which was concerned to keep the field free for its qualified members, sought to formally associate dispensing by unqualified assistants in doctors shops with medical "covering" i.e. doctors employ

40. Hansard, House of Commons Debates, May 4 1899, vol. 70, cols. 1294-5, <http://hansard.millbanksystems.com/>, accessed June 4, 2010. The role of the GMC in regulating the use of medical assistants by doctors will be discussed later in this article.

41. Glasgow Faculty of Physicians and Surgeons, Minute Book, April 7, 1902, RCPSG 1/1/12.

42. Digby, Evolution of British General Practice (n. 8), 139.

43. Pharmaceut. J., March 10, 1894, 750.

Dispensary Shopkeeping by Scottish General Practitioners 13

ing unqualified medical assistants within their practices to visit patients, and in some cases certify causes of death. Digby has noted that in 1883 the General Medical Council (GMC) made its first ruling against general practitioners employing unqualified assistants to undertake professional medical duties. In 1888, the first doctor was struck off for using unqualified assistants in this respect.⁴⁴ Noting the similarities between such medical "covering" and the use of unqualified dispensers in doctors' shops, the Pharmaceutical Society successfully mounted a series of prosecutions against drug retail by unqualified dispensers employed in these stores contrary to the Pharmacy Acts. Following around fifty such prosecutions, the Pharmaceutical Society drew the attention of the GMC to several doctors whose unqualified assistants had been repeatedly prosecuted for infringements of the Pharmacy Acts. The punitive actions of the GMC following its hearings on shopkeeping doctors stirred up latent general practitioner resentment against the medical governing body, dominated as it was by the interests of the medical licensing agencies and the consultant class.⁴⁵ This righteous anger fueled Scottish general practitioner protests, and pressure groups were formed with the aim of preserving traditional dispensing rights, in actions that reinforce the assessment by Crowther and Dupree that "general practitioners . . . tend to be most visible when aggrieved."⁴⁶

The Pharmaceutical Society's campaign to target the employment of unqualified assistants by doctors in their shops was ignited in 1892. At its twenty-ninth annual conference held in Dundee, the president gave an address on the "low ebb" of the Scottish pharmaceutical profession, which he alleged was due to the fact that

in all their towns they had numerous doctors shops open for the dispensing of drugs. Of these shops they had 300 in greater Glasgow alone. In outlying country districts this might be justifiable, but in the second city of the Empire there was no excuse for it. Whether by the law as it present stood they could put that state of things right he did not know, but if they could not, then the law should be amended to give that power (applause).⁴⁷

The figure of 300 shopkeeping doctors in Glasgow represents a sizeable proportion of doctors in the city at that time, amounting to 63 percent of the 477 Glasgow doctors recorded in the 1892 Medical Directory.⁴⁸ How

44. Digby, *Evolution of British General Practice* (n. 8), 47.

45. *Ibid.*, 39.

46. Crowther and Dupree, "Invisible General Practitioner" (n. 8), 388.

47. Dundee Courier and Argus, August 24, 1892,
<http://find.galegroup.com.ezproxy.stir.ac.uk/bncn/publicationByLocation.do>, accessed January 17, 2012.
48. Medical Directory, 1892 (London: J. and A. Churchill, 1892), passim.

14 jacqueline jenkinson

many of the group of Glasgow doctors were general practitioners is not known since the Medical Directory did not include specific medical occupations

of those entered in its pages. There were 2,366 doctors in Scotland as whole in that year, hence slightly over 20 percent of all Scottish-based

doctors practiced in Glasgow. Entry into the Medical Directory was dependent

on practitioners themselves returning information. It is unlikely, therefore, that these figures are completely accurate for overall doctor numbers or that the information provided in the entries was up to date, yet as Dupree and Crowther have shown they are the best available.⁴⁹ Medical

Directory entries also did not record whether doctors kept drug retail shops. However, shopkeeping doctors, although they could not advertise, sometimes recorded their shop addresses alongside their home addresses in local town information directories. For example, Dr. Simon Prince Clark, a general practitioner whose unqualified assistants were prosecuted

in 1900, recorded his Glasgow home address alongside that of his retail dispensing store premises: "Apothecary Hall, 324 Rutherglen Road" in the Glasgow Post Office Directory for 1899-1900.⁵⁰ Where this information is

supplied in local trade directory entries, it provides a useful indicator of

career status absent from Medical Directory entries. Although the 300 shop-

keeping doctors suggested for Glasgow at the Pharmaceutical Society's 1892 meeting seems high (and is conveniently rounded), it may not have been a total exaggeration since other contemporary sources, including a petition to the GMC in 1901 signed by 400 shopkeeping doctors in the area, indicate that hundreds of Glasgow doctors kept retail drug shops.

The perception that Glasgow doctors were the main offenders in employing unqualified assistants made them the prime target for prosecutions

for abuses under the Pharmacy Acts. Yet evidence shows that pharmacy retailing by doctors was prevalent in other large urban areas throughout Scotland, including the capital, Edinburgh.⁵¹ Moreover, two Dumbarton and two Airdrie-based general practitioners and another from Linlithgow in West Lothian were among eight Scottish doctors who appeared before the GMC in misconduct hearings in 1900-1901.

In March 1902, the Chemist and Druggist reported drug shops were being kept by doctors in the Renfrewshire industrial towns of Greenock and Paisley.⁵² Three months later, the same journal asserted that fifteen Aber

49. Dupree and Crowther, "Profile of the Medical Profession in Scotland" (n. 8), 211.

50. Glasgow Post Office Directory, 1899-1900 (Glasgow: William Mackenzie, 1899), 135.

51. See the prosecution of an Edinburgh doctor's unqualified assistant in 1903 discussed later in this article.

52. Chemist and Druggist, March 15, 1902, 429.

Dispensary Shopkeeping by Scottish General Practitioners 15

deen doctors were known to be keeping "open shops."⁵³ However, the Pharmaceutical Society campaign against the evasion of the law focused on Glasgow, accurately described by the society's president as the "second city of Empire." Glasgow was at that time the world's largest shipbuilding and engineering producer and had a population of 658,073 in 1891.⁵⁴

Lawyers acting for the Pharmaceutical Society described Glasgow doctors as "notorious" for leaving their shops in the charge of "unqualified assistants, who are sometimes mere boys, or even girls."⁵⁵ These were exaggerated claims. An analysis of the assistants convicted and fined reveals a range of male and females employed as dispensing assistants.⁵⁶ Some of the assistants were the "inexperienced youths" lawyers for the Pharmaceutical Society alleged.⁵⁷ More were experienced, albeit unregistered, pharmacy assistants, and others were current (and perpetual) medical students.⁵⁸ For example, Robert White, prosecuted as an unqualified assistant in 1897 [this should be 1893], was by 1899 [this should be 1897] qualified M.A., B.Sc. By 1899 he was medically qualified, having received the double qualification in medicine and surgery, M.B., Ch.B.: all his qualifications were obtained at Glasgow University.⁵⁹

Examination of the cases pursued by the Pharmaceutical Society reveals that the types of doctors who kept open shops varied. According to Checkland and Lamb, such shops flourished in the poorer, central sections of Glasgow. "In Trongate, Gallowgate and Saltmarket were found the 'shops' of the humbler members of the profession, usually non-graduates, the Licentiates of the medical Corporations [corporations should be in lower case]."⁶⁰ It is clear that there were gen

53. Chemist and Druggist, June 28, 1902, 902.

54. The Glasgow Guide, <http://www.glasgowguide.co.uk/info-facts1.html>, accessed March 29, 2011.

55. Pharmaceut. J., January 27, 1894, 607.

56. Miss J. Noble, employed at the shop of Dr. Barrie in Eglinton Street in Glasgow, and Helen Robb, employed in Dr. Grant's shop in Blantyre, were both convicted for unqualified poison dispensing. See Pharmaceut. J., March 18, 1897, 241-42. Annie Drysdale, unqualified assistant to Dumbarton doctor W. A. McLachlan was similarly convicted. Pharmaceut. J., May 4, 1901, 577.

57. For example, Robert Matthews, unqualified assistant to Dumbarton doctor James Wilson, prosecuted in late 1900, was aged only fourteen. Pharmaceut. J., May 4, 1901, 577.

58. William Brownrigg, "a registered medical student," was convicted of selling scheduled poisons in 1900. See Pharmaceut. J., June 30, 1900, 693. John McKinnell, who had failed his medical examinations four times and was due to take his finals again, was fined for two offences of acting as an unqualified dispenser to recently qualified doctor John Steele Smith in 1901. See Pharmaceut. J., June 22, 1901, 780.

59. See Medical Directory, 1905 (n. 48), 1831 for more details on Robert George White.

60. Olive Checkland and Margaret Lamb, eds., Health Care as Social History: The Glasgow Case (Aberdeen: Aberdeen University Press, 1982), 20.

16 jacqueline jenkinson

eral practitioners practicing in poorer districts of the city for whom the drug retail income would have made a significant contribution to their overall remuneration. Checkland and Lamb cite the case of John Dougall, "an active and respected . . . practitioner of long standing" who, in 1872, had to refuse election to the fellowship of the Glasgow Faculty of Physicians and Surgeons because he could not afford to give up his shop. He was in a better financial position by 1876 and became a fellow that year.⁶¹

However, study of a constructed sample of twenty of the doctors whose assistants were prosecuted circa 1893-1903 shows that few doctors who kept drug retail shops fitted this picture of minimal qualification and limited income. Thirteen were university graduates, fifteen held numerous public and private appointments, and the eight who practiced in Glasgow in the sample were not confined to the poorest quarters of the city. Career information on some of the doctors called before the GMC to answer charges of gross professional misconduct further illustrates the level of qualification obtained prior to opening shops for drug retail.

Airdrie-based general practitioner John Martin Thomson was a medical graduate in both medicine and surgery from Edinburgh University; Alexander

Whyte Mason of Springburn, Glasgow, held the Triple Qualification of the Royal Colleges in Scotland; and Simon Prince Clark of Crosshill, Glasgow, was a licentiate of both the Society of Apothecaries and the Royal

College of Physicians of Edinburgh.⁶² Others who appeared before the GMC had extensive medical careers, such as William Allison McLachlan, a Dumbarton doctor who had published a series of articles in the *Lancet*, *British Medical Journal*, and *Glasgow Medical Journal*, was surgeon in the local cottage hospital, local parish medical officer and medical officer of

health, surgeon-captain in a local artillery regiment of volunteers, and medical referee for the Workmen's Compensation Act, 1897 as well as for "several" life assurance societies. He was also a member of the British

Medical Association, a fellow of the Royal Institute of Public Health, president

of the Dumbarton Medical Society, and a member of the Glasgow Medical Chirurgical Society.⁶³

It is possible that this sample does not reflect the variety of experience

among shopkeeping general practitioners, where for those starting out or on the margins of the profession, shopkeeping provided a vital source of income while they carved out a viable practice. Understandably, the Pharmaceutical Society may have focused on prosecuting well-established

61. *Ibid.*, 19.

62. *Scotsman*, November 28, 1901, 7.

63. *Medical Directory*, 1901 (n. 48), 1392.

Dispensary Shopkeeping by Scottish General Practitioners 17

doctors, some of whom kept more than one shop, in order to maximize their campaign. Among the sample of twenty, only three had no additional appointments listed in their Medical Directory entries beyond medical qualifications at the time of their court appearances. One such was Glasgow doctor John Steele Smith, who qualified in medicine and surgery at Glasgow University in 1900.⁶⁴ The lawyer defending his unqualified assistant in court in June 1901 commented that Dr. Steele Smith "was practically now starting his profession."⁶⁵ Further evidence that newly qualified doctors opened drug retail shops comes from the *Chemist and Druggist*, which in 1902 noted that it was common practice among recently qualified Aberdeen doctors "to keep the pot boiling" by keeping an open shop.⁶⁶

The Pharmaceutical Society campaign against unqualified dispensers was successfully initiated with a series of prosecutions at Glasgow Sheriff

Court, beginning with two unqualified assistants to Dr. James Walls White.

These were Miller, the shop manager, who had worked in the business for thirty years and Robert White, a medical student and nephew to Dr. White. The doctor sought to justify his employment policy and stated his nephew was a competent person who had passed his exams in botany, pharmacy, and materia medica. Dr. White explained he had kept a shop for more than thirty-five years and commented that he was "in the drug trade before the passing of the Act of 1868."⁶⁷ White's Medical Directory entry for

1892 notes his membership in the Pharmaceutical Society, although tellingly

this information does not appear subsequently.⁶⁸ Despite the doctor's pleas, both assistants were convicted. In Miller's case, the presiding judge, Sheriff Birnie, accepted the argument that Miller felt he was acting

within the law, and he was fined five shillings plus a further two pounds and two shillings expenses. Medical student White could claim no such ignorance of the law and was fined two pounds and two shillings, with the same amount awarded in expenses.

These cases were the first of a series of prosecutions for breaches of the

Pharmacy Acts handled on that day by Sheriff Birnie. Two other unqualified

assistants, Craig and Tomlinson, who each worked in shops owned by general practitioner Dr. Hugh Kelly, were convicted for similar breaches of

the Pharmacy Acts. A case against a further dispensing assistant, described

64. See John Steele Smith's entry in *ibid.*, 1401.

65. *Pharmaceut. J.*, June 22, 1901, 780.

66. *Chemist and Druggist*, June 21, 1902, 948.

67. *Pharmaceut. J.*, December 2, 1893, 448.

68. *Medical Directory*, 1892 (n. 48), 1208.

18 jacqueline jenkinson

as a "little boy" named Downie, was withdrawn.⁶⁹ In his evidence, Dr. Kelly explained he had kept his shops for nine years. He sought to justify his business conduct and described Tomlinson as an apprentice learning the "trade of chemist and druggist" who had been employed from the age of twelve and who had dispensed from the age of fifteen.⁷⁰ The keeping of two shops suggested that business rather than offering the public wide medical care was Dr. Kelly's motivation, and the sheriff commented that this was the case of "a gentleman who does not care for the Act at all."⁷¹

Craig was convicted and fined five pounds, plus two pounds and two shillings expenses. Sixteen-year-old William Tomlinson was fined two pounds and four shillings, plus a further two pounds and four shillings expenses.

The Pharmaceutical Journal reported on this day of prosecutions and commented on the importance of securing convictions, with expenses, in these cases as a means of establishing case law under the terms of the Pharmacy Acts against unqualified dispensing assistants employed by doctors: "[T]hese prosecutions are of importance as being the first clear cases against bona fide doctor's assistants."⁷²

In response to the convictions and fines imposed on his assistants, Dr. Kelly raised the issue of the prosecution of unqualified dispensers before the general-practitioner-dominated Glasgow Southern Medical Society. Kelly stated that "medical men have the right of employing unqualified dispensers and asked the Society to take such steps as were necessary to reserve that right."⁷³ Although some dissenting voices opposed the action as "inadvisable," the society formed a committee to support those members whose assistants had been prosecuted. The subcommittee, labeled the "Pharmaceutical Prosecution Defence Committee" in the Pharmaceutical Journal, decided to take a test case—the prosecution of Kelly's assistant Tomlinson—to a higher appeal court to determine Scottish law in the matter.⁷⁴ The committee was given ten pounds from society funds to begin the appeal process.⁷⁵ The committee raised further funds via a circular sent out to local general practitioners.⁷⁶ The appeal case in the conviction

69. Pharmaceut. J., November 25, 1893, 429.

70. Pharmaceut. J., December 2, 1893, 458.

71. Ibid.

72. Pharmaceut. J., November 25, 1893, 429.

73. Glasgow Southern Medical Society Minute Book, October 5, 1893, RCPSG73/1/8 (1890-95).

74. Pharmaceut. J., March 10, 1894, 750.

75. Southern Medical Society, Minute Book, October 12, 1893.

76. Pharmaceut. J., January 27, 1894, 607.

Dispensary Shopkeeping by Scottish General Practitioners 19

of Tomlinson under the Pharmacy Acts was heard at the High Court of Justiciary (the supreme criminal court for Scotland). Acting for Dr. Kelly, his lawyer, Mr. Guthrie, described the case as very important and one that

applied to a very large number of people who hitherto had carried on their business under the belief that they were entitled—if they themselves were qualified—by a competent assistant—to dispense and compound drugs without any liability under the Pharmacy Acts.⁷⁷

Lawyers for the assistant, Tomlinson, similarly argued that prosecutions for sales by unqualified dispensers under the Pharmacy Acts should be directed against the trader and not the seller of the poisons and that no prosecution should take place where qualified doctors ran their own shops. This defense argument failed. The law lords came to a majority verdict that followed the interpretation in England and Wales, that the unqualified assistant of a doctor was liable for prosecution for selling restricted poisons during his or her employer's absence.⁷⁸

Conceding that this battle was lost, the defense committee was thanked for its sterling efforts and dissolved in November 1894.⁷⁹ A wave of prosecutions against unqualified pharmaceutical assistants of Scottish shop-keeping doctors followed over the next six years. In taking such concerted action, the Pharmaceutical Society intended to force doctors to comply with the law by hiring qualified pharmaceutical assistants. Yet the court proceedings and subsequent fines against unqualified assistants had little practical effect among dispensing general practitioners. Instead, the prosecutions reignited organized protests within the Scottish medical profession. For example, one of those whose assistants were prosecuted, Dr. Hugh Arthur, was a member of the Scottish Midland and Western Medical Association. He raised the matter before the association at a specially convened meeting in March 1897 and received a vote of sympathy for the "wrong and annoyance" he had faced due to the prosecution of his two shop assistants for selling poisons.⁸⁰

The Scottish Midland and Western Medical Association (SMWMA) had a strong medico-political aspect to its affairs and monitored legislation

77. Scotsman, March 20, 1894, 3.

78. Pharmaceut. J., June 16, 1894, 1051. For more on the judgment, see Faculty of Physicians and Surgeons, Glasgow, (FPSG) Council Minutes, June 9, 1902, RCPSG 1/1/12.

79. Southern Medical Society, Minute Book, November 8, 1894.

80. Scottish Midland and Western Medical Association, Minute Book, March 11, 1897, RCPSG 6.

20 jacqueline jenkinson

that affected professional interests.⁸¹ Dr. Goff, one of its influential members and a Glasgow British Medical Association (BMA) official, presented a memorial opposing the prosecutions of doctors' dispensing assistants before the Parliamentary Bills Committee of the BMA. The memorial proposed the amendment of the Pharmacy Acts to have the word "seller" of poisons defined to be the owner of the shop or dispensary, in an attempt to allow unqualified assistants to continue to sell scheduled poisons under the banner of their employer's responsibility.⁸² Several of the doctors who faced prosecution were BMA members, yet this appears to have been the first time doctors under pressure for their pharmaceutical retail turned to the BMA for support. The BMA Parliamentary Bills Committee formed a subcommittee to assess the matter in October 1897. Although the subcommittee reported that it sympathized with Dr. Arthur and the SMWMA petitioners "in the difficulties of their position," it declined to attempt to amend the Pharmacy Acts to support the rights of doctors who employed unqualified assistants, concluding ". . . it is the duty of the British Medical Association to support the policy of the Pharmacy Acts."⁸³ This established a pattern in which there was firm local BMA backing for the Scottish doctors' campaign, but little support within the association's hierarchy.

By December 1900, the Pharmaceutical Society had instituted close to fifty prosecutions against illegal dispensing of poisons by the unqualified assistants of medical practitioners.⁸⁴ The Pharmaceutical Society's method of evidence gathering was to employ "undercover" agents posing as members of the general public suffering ailments that required immediate assistance, in order to induce a sale of restricted poisons when it was known that the doctor was out on call. The purchases were analyzed to prove the contents were among poisons restricted under the Pharmacy Acts before a prosecution was brought to court. These methods were often criticized by defense lawyers, who argued that the breaches of the law were induced and merely technical offences. This use of this tactic featured in a light-hearted report in the less formal of the pharmaceutical

81. For example, in 1874 the SMWMA challenged the position of the British Medical Association in Scotland by proposing the formation of a Scottish Medical Association by combining the various medico-political societies around the country. See Jacqueline Jenkinson, *Scottish Medical Societies, 1731-1939: Their History and Records* (Edinburgh: Edinburgh University Press, 1993), 191.

82. Scottish Midland and Western Medical Association, *Minute Book*, April 16, 1897.

83. Scottish Midland and Western Medical Association, Minute Book, April 15, 1898.

84. Scotsman, December 4, 1900, 5, reported forty-eight cases; the Lancet, December 8, 1900, 1694, stated there had been forty-six prosecutions; Holloway, Royal Pharmaceutical Society (n. 11), 283, gave the figure as forty-five.

Dispensary Shopkeeping by Scottish General Practitioners 21

periodicals, the *Chemist and Druggist*, which quoted a (perhaps apocryphal) female English visitor to Glasgow who encountered difficulties when trying to buy goods from several doctors shops and resorted to a local chemist: "It dawns on the chemist that his customer had fallen under suspicion of being the notorious 'female spy' armed with a detection camera, who has figured in so many local prosecutions."⁸⁵ With the failure of the mass prosecutions to bring to an end the employment of unqualified dispensing assistants by doctors in contravention of the Pharmacy Acts, the Pharmaceutical Society sought to publicly make the point that it was the unqualified assistants who were subject to prosecution and financial penalty, while doctors escaped uncensored. The exploitation of unqualified medical assistants who, for little pay, undertook such duties as recording patient details, arranging for house calls, and even sometimes covering doctors' night visits was a long-standing grievance within the profession. Loudon has noted that in 1851 a series of letters drawing attention to the abuses by general practitioners who employed medical students or the recently qualified to carry out such duties appeared in the *Lancet*.⁸⁶ The GMC had acted on cases of covering since 1883, and in 1894 undertook to place its resolutions on this aspect of misconduct in the medical journals and to supply a copy of its rulings to every person applying for medical registration.⁸⁷ The GMC had also accepted a subcommittee report on covering, which attempted to further restrain the practice, with the exception allowed for assistants who were medical students in training.⁸⁸

*Initially the GMC appeared unaware of the extent of shopkeeping by general practitioners, and in January 1899 when asked by the government [remove italics here] to examine the employment of unqualified pharmaceutical dispensers by doctors, the executive council of the GMC [remove italics here] responded that while there were occasional accidents that arose from this practice by doctors, "the best protection is afforded to the public by the responsibility of the practitioner for the acts or defaults of the servants whom he employs."*⁸⁹ The GMC proposed to take no action against doctors dispensing via their unqualified assistants, which, it inaccurately stated, "exists chiefly in the practice of the

85. *Chemist and Druggist*, February 1, 1902, 221.

86. Loudon, *Medical Care and the General Practitioner* (n. 1), 264.

87. *General Medical Council Published Minutes*, vol. 31, May 25, 1894, 82, Edinburgh University Centre for Research Collections, GD5/1/31.

88. *General Medical Council Published Minutes*, vol. 34, November 23, 1897, 114-23.

89. Quoted in petition to Privy Council by Glasgow doctors in *GMC Minutes*, vol. 40, November 23, 1903, 251.

22 jacqueline jenkinson

older members of the profession and in outlying districts."90 This comment

demonstrated ignorance of the prevalence of this practice in urban Scotland. Ignoring the Tomlinson judgment several years earlier, Scottish general practitioners' campaigning on this issue interpreted the GMC ruling as exempting unqualified assistants from prosecution when they sold controlled poisons since overall responsibility lay with the general practitioner, even if absent when the sale was transacted. Having made little headway via court prosecutions, and prompted by the GMC statement on employer responsibility in medical dispensing, the Pharmaceutical Society alerted the GMC to the potential professional misconduct involved in cases where shopkeeping doctors had been prosecuted for ignoring the Pharmacy Acts on multiple occasions.

Unlike today when all registered medical practitioners in the United Kingdom are given a booklet of guidance on professional conduct, in the nineteenth century there were no formal guidelines of what constituted good professional conduct. As Smith has noted, acceptable and deviant practices were, therefore, developed only through the decisions given by the GMC in disciplinary cases.⁹¹ Clearly aware of this procedure, the Pharmaceutical Society's lawyers brought a test case before the GMC in order to attempt to force general practitioners to comply with the relevant

clauses of the Pharmacy Acts of 1868 and 1869. At a GMC hearing in London on December 3, 1900, the legal advisers of the Pharmaceutical Society

pointed out that it was the custom of the medical practitioner to attend a shop

for two hours or so and leave the place for the rest of the day in the entire

charge of an assistant who was not qualified. . . . The Pharmaceutical Society

regarded this custom as not only contributing a serious danger to the public

but as really the "covering" of unqualified persons so as to enable them to

practice [pharmacy].⁹²

The case brought before the GMC was that of John Martin Thomson, a general practitioner in Clarkston, near Airdrie, in Lanarkshire, whose unqualified pharmaceutical assistants had been prosecuted on three occasions for dispensing scheduled poisons while Dr. Thomson was not on the premises. The second incident involved the sale of a lethal dose of laudanum (i.e., tincture of opium) by his assistant, also named John Thomson, but no relation, to a nine-year-old girl, Maggie Waddell, whose

90. Quoted in petition from Glasgow practitioners to Privy Council forwarded to GMC,

GMC Minutes, vol. 40, November 23, 1903, 252.

91. Smith, "Development of Ethical Guidance" (n. 14), 57.

92. Lancet, December 8, 1900, 1694.

Dispensary Shopkeeping by Scottish General Practitioners 23

mother "in the sufferings following childbirth" used the drug to commit suicide in front of her daughter.⁹³ The tragic death of the woman was quickly glossed over on all sides; the local newspaper reported the case as "merely a technical offence" by the assistant Thomson, recording only that the assistant had sold the laudanum to "Maggie Waddell, Frame's Buildings, 70 Clerk Street, Airdrie."⁹⁴ Sheriff Mair, who heard the original

case brought by the Pharmaceutical Society at Airdrie Sheriff Court, downplayed the significance of the prosecution: "[E]veryone knows there is a properly qualified man in the premises."⁹⁵ Giving out a token fine of

two shillings and sixpence against the unqualified dispenser (compared to similar cases where fines of two to five pounds were common combined with the award of around two pounds in costs), Mair stated, "I am not going to give expenses. I have no sympathy with the Pharmacy Act and that is also the reason why I have made the penalty so small."⁹⁶

Prosecuting

lawyer for the Pharmaceutical Society, Peter Morison, commented "with all deference" that the sheriff's personal opinion should not come into the legal judgment.⁹⁷ Given Mair's comments, it is unsurprising to discover

that John Martin Thomson was the sheriff's own doctor.⁹⁸

Dr. Thomson's hearing was judged on whether he was guilty of professional misconduct in employing unqualified assistants to dispense for him while he was absent. In his defense, Thomson argued that this was common practice throughout the west of Scotland. He also stated he had instructed his assistants not to sell scheduled poisons when he was out on call.⁹⁹ Thomson, who graduated in 1891, alleged he had never heard of the 1894 Tomlinson appeal judgment that provided Scottish case law against the practice of employing unqualified assistants to dispense in the doctor's absence. Prosecuting lawyer Morison found this hard to believe since the case was

so notoriously well known in Scotland and beyond it, and in which it was perfectly

well known that the costs of the appeal were paid out of a fund specially raised for the purpose by medical practitioners who were keeping open shops

for the sale of poisons.¹⁰⁰

93. *Pharmaceut. J.*, June 12, 1901, 32.

94. *Airdrie Advertiser*, July 29, 1899, 4.

95. *Pharmaceut. J.*, August 5, 1899, 155.

96. *Ibid.*

97. *Airdrie Advertiser*, July 29, 1899, 4.

98. *Brit. Med. J.*, December 8, 1900, 1668.

99. *Glasgow Herald*, December 4, 1900, 9.

100. *Pharmaceut. J.*, December 8, 1900, 675.

24 jacqueline jenkinson

Given the weight of evidence, the GMC found Thomson guilty of "infamous conduct" (for which he could be struck off the Medical Register), but held off making a final judgment for six months.

The repercussions of this guilty finding by the GMC quickly permeated the ranks of the Scottish medical profession. A group of sixty-four doctors

"smarting at the indignity recently imposed"¹⁰¹ met at the premises of the Southern Medical Society to plan organized opposition to the GMC ruling. The feeling of the meeting was that "a great hardship would be inflicted on medical practitioners" if the decision were maintained.¹⁰² The active support of a wide group of general practitioners led to the formation of a conjoint committee of representatives from the Glasgow Southern and Glasgow Eastern Medical Societies, supported by delegates from the Glasgow and West of Scotland branch of the BMA, including its president William Watson. The local BMA presence again highlights the contrasting level of support at the local and national levels by the BMA on this issue.

Forty-five practitioners attended a further meeting that was addressed by William Bruce, the Scottish medical profession's sole directly elected representative on the thirty-one-seat GMC (which included seven representatives of the Scottish medical licensing colleges). "[He] . . . greatly relieved the membership of the general practitioners present by stating that the General Medical Council would never condemn the keeping of open shops."¹⁰³ A memorial was prepared at the meeting with the intention of a delegation presenting it in person before the GMC, and it was also decided to draw up a petition to be sent to Parliament requesting an increase in the direct representation of general practitioners on the GMC.¹⁰⁴

At the June 1901 hearing the GMC decided to take no further proceedings against Thomson, having restated before him the seriousness with which they viewed his offence. In reaching this decision, the council was impressed by the fact that in the intervening six months since his last appearance Thomson had employed a qualified dispenser in his shop.¹⁰⁵ GMC president Sir William Turner stated he believed the deci

101. Glasgow Southern Medical Society, Minute Book, December 14, 1900, RCPSG

73/1/9 (1895-1904).

102. Ibid.

103. Ibid., December 20, 1900.

104. Ibid.

105. Lancet, June 8, 1901, 1841-42.

Dispensary Shopkeeping by Scottish General Practitioners 25

sion to allow Thomson to remain in practice would placate concerned Scottish general practitioners.¹⁰⁶ The general practitioner delegation then in London (including Dr. Hugh Kelly, who had led the campaign to take the Tomlinson test case before the Scottish High Court in 1894) had with them a petition signed by 400 medical practitioners from the west of Scotland ready for presentation before the GMC. Medical Directory returns for 1900 indicated there were 3,041 doctors in Scotland in 1900, of these 750 were in Glasgow (24.7 percent). The 400 doctors who signed the petition represented approximately 13 percent of all practitioners in Scotland. Despite the pleas of Scottish representative Dr. William Bruce, and the concerns voiced by several of its members, the GMC executive council decided, after taking legal advice, it could not receive the deputation

regarding a case that was sub judice.¹⁰⁷ The GMC declined to accept the petition that contained "arguments of a general kind . . . and does not purport to convey facts and evidence relevant to the present stage of these judicial proceedings."¹⁰⁸ The snubbed representatives lodged an immediate letter of protest and returned to Scotland to continue their campaign.¹⁰⁹ Further letters received no response since the GMC would not discuss further its refusal to meet with the delegation.¹¹⁰

The failure of the GMC to engage in a dialogue with those seeking guidance or provide reasoned explanation for findings of professional misconduct apparent in this episode has been described by Smith as a barrier

to the GMC's function in declaring ethical principles.¹¹¹ For example, the proceedings against Thomson in December 1900 and June 1901 were largely held in camera. President of the Glasgow Southern Medical Society,

Dr. John Stewart, speaking in December 1901, voiced the common, albeit extravagantly worded, response to the GMC actions:

The idea we fondly cherished of the General Medical Council, that it was a body having the interests of the medical practitioners at heart, always anxious to listen to grievances, has proved but a pleasant dream, from which we have had a rude awakening.¹¹²

A protest letter from a group of west of Scotland doctors went further and alleged that the GMC was "a secret tribunal."¹¹³ The view of GMC

106. GMC Minutes, vol. 38, June 5, 1901, 38.

107. GMC Minutes, vol. 38, June 4, 1901, 29 and June 5, 1901, 34.

108. GMC Minutes, vol. 38, June 4, 1901, 29

109. GMC Minutes, vol. 38, June 11, 1901, 80.

110. Brit. Med. J., June 15, 1901, 1488-89.

111. Smith, "Development of Ethical Guidance" (n. 14), 66.

112. Glasgow Med. J. 57, December 19, 1902, 144.

113. GMC Minutes, vol. 40, November 23, 1903, 253.

26 jacqueline jenkinson

president Sir William Turner was that "it would be a very serious matter if the Council were to permit outsiders to influence them in connection with the conduct of their judicial proceedings."¹¹⁴

For hundreds of Scottish general practitioners, the outcome of the Thomson case was viewed as a blow to their freedom to earn a living as best they could. The pressure group activity on this issue paved the way for the formation of another Glasgow medical society with a strong interest in medico-political affairs, the Northern Medical Society, in 1902. The repercussions were also felt in the campaign to elect the Scottish direct representative on the GMC later in 1901. Doctors in the west of Scotland put forward their own candidate in the poll. However, Charles E. Robertson, a general practitioner in the south side of Glasgow and a leading light in the Southern Medical Society, trailed in third to William Bruce.¹¹⁵ Dingwall-born general practitioner Bruce, who had held the post as directly elected Scottish representative since 1886, when five such seats were added to the twenty existing held by the various British medical licensing authorities and five government appointees, had shown some sympathy for the campaign to protect the keeping of "open shops." He also supported the calls for the increase of direct representation on the GMC and hence could be regarded as already representing the views of those who were dissatisfied with the actions of the GMC executive council.¹¹⁶ In his letter to the medical press thanking those who reelected him in 1901, Bruce referred to the issue of the pharmacy prosecutions and the GMC interventions: As regards prosecutions at the instance of the Pharmaceutical Society, the Council, while feeling bound to intervene in the interests of the public at large, and for the sake of the good name of the profession, is not, I am sure, in the least degree disposed to become the *cat'spaw* [should be two separate words - *cat's paw*] of the chemists and druggists to their advantage, and to the detriment of members of our own body.¹¹⁷

The attempt by general practitioners in the west of Scotland to alter the GMC's stance by electing one of their own to the profession's governing body failed. This is not surprising since the member they attempted to unseat, William Bruce, had a proven track record representing the whole of the Scottish profession and had shown an active interest in the fair treatment of shopkeeping doctors. Their broader intention also failed

114. Scotsman, June 6, 1901, 6.

115. Brit. Med. J., December 14, 1901, 1766.

116. Brit. Med. J., December 22, 1900, 1819.

117. Brit. Med. J., November 23, 1901, 1201.

Dispensary Shopkeeping by Scottish General Practitioners 27

since there was no reform of the GMC membership until the addition of a single further directly elected representative in 1911. This token increase was regarded by many general practitioners as insufficient since the number of doctors in Britain had risen from 26,000 in 1886 to over 40,000 by 1910-11.¹¹⁸

While Scottish general practitioners protested, the medical establishment supported the GMC's actions. Two Scottish universities publicly expressed concerns for the status of the Scottish profession following Thomson's misconduct conviction by the GMC. The secretary to Aberdeen University Senate wrote to the *Lancet* to report the senate's recent resolution, that it was "undesirable and detrimental to the position of medical graduates" to keep open shop. The letter noted that a similar resolution had been passed by Edinburgh University.¹¹⁹ Since fourteen among the sample of twenty doctors whose unqualified assistants were prosecuted were university graduates, this suggests that among current practitioners little heed was paid to the universities' advisory guidelines.

The national medical press also warmly welcomed the decision against Thomson. An article in the *Lancet* described shopkeeping as "an infringement upon the dignity of the medical profession," before stating,

We have no wish to be hard on Dr Thomson. In keeping a shop for the sale of drugs and poisons over the counter, in trade fashion, and without prescribing, he only did what many others of his profession do in his division of the Kingdom. The custom is an old one belonging to more primitive days, and even now in lonely parts it may be capable of some justification. But in general, and at this time of day, it is not one consistent with the welfare of the public or the dignity of the profession, therefore it must be altered.¹²⁰ [insert a blank line between the end of quote 120 and the next line].

A leading article in the *British Medical Journal* echoed this sentiment:

Although the abolition of the doctor's shop and his unqualified assistant would mean a sacrifice to many in the West of Scotland, it may be none the less a desirable result of the present agitation, and would most likely not only benefit the public, but improve the status of the medical practitioner.¹²¹

Following its verdict on Thomson, the GMC in November 1901 heard in a group the cases of a further seven Scottish general practitioners whose unqualified dispensing assistants had been prosecuted under the auspices

118. *Glasgow Med. J.* 75, December 6, 1910, 140, report of a meeting of Glasgow Northern Medical Society.

119. *Lancet*, August 3, 1901, 316.

120. *Lancet*, January 5, 1901, 44-45.

121. *Brit. Med. J.*, January 5, 1901, 52.

28 jacqueline jenkinson

of the Pharmaceutical Society. In their defense, several among this group stressed the service to the public they provided through their shops. One of the doctors, James Wilson, explained his retail dispensing shop provided

an essential public service in a large industrial town on the Clyde coast: "[H]is chief reason for having an open surgery was that he had a considerable surgical practice in connexion with the shipbuilding yards and engine works in Dumbarton and accident cases were continually being brought to him which he could not deal with in a private house."¹²² Another of the Dumbarton accused, Dr. W. A. McLachlan, insisted that part of his duty as parochial medical officer (for the parish of Cardross)

was dispensing drugs to the poor since there was no qualified chemist in the whole parish.¹²³ As the only doctor in the district, he was unlikely to

have relied on the shop for his main source of income. His previously noted extensive career details underline this fact.

The group of seven was found guilty of "infamous conduct" against the profession by their conduct. Their expressions of regret and declarations

that they would no longer employ unqualified dispensers were sufficient to prevent further action. However, this judgment amounted to a final warning by the GMC, not simply to the practitioners involved but to the whole of the profession, against the employment of unsupervised, unqualified dispensing assistants. To reinforce its decision, the next day

the GMC ordered that a warning notice to the profession be immediately published in the Scottish press and in medical journals and stated that the notice was to be issued to all practitioners "as opportunity offered."

The warning notice stated,

The Council hereby gives notice that any registered practitioner who is proved to have so offended is liable to be judged guilty of "infamous conduct in a professional respect" and to have his name erased from the Medical Register under the 29th section of the Medical Act 1858.¹²⁴

In January 1902, the Scottish branch of the GMC reported that the warning notice had twice been published in newspapers throughout Scotland: in Aberdeen, Dumfries, Dundee, Edinburgh, Glasgow, and Inverness as well as in a national Scottish tabloid, the Daily Record.¹²⁵ The wide circu

122. Brit. Med. J., November 30, 1901, 1627.

123. Ibid. The range of posts held by William Allison McLachlan has been mentioned earlier in this article. For a full list, see his entry in the Medical Directory, 1901 (n. 48), 1392.

124. GMC Minutes, vol. 38, December 2, 1901, 129; see also Brit. Med. J., December 7, 1901, 1699-1700.

125. GMC Minutes, minutes for Scottish branch of GMC, vol. 39, May 28, 1902, 281.

Dispensary Shopkeeping by Scottish General Practitioners 29

lation of the notice reinforced the fact that while shopkeeping among doctors was labeled a west of Scotland, even a Glasgow, phenomenon, it occurred around Scotland, and beyond.

While taking these punitive measures, the GMC refused to engage in dialogue with interested groups of doctors. This stance raised a broader issue, namely, the GMC's methods in setting ethical standards and policing professional conduct via warning notices.¹²⁶ The GMC responded to such allegations by stating as a general principle that it was "not desirable to pass a resolution condemning any practice in general terms until a series of cases decided before them has so clearly demonstrated the prevalence of that practice as to call, in the opinion of the Council, for a Warning Notice of the profession."¹²⁷ GMC president Sir William Turner alluded to this point in June 1901 when announcing the decision not to pursue Dr. Thomson any further despite his conviction of gross professional misconduct: "[I]n view of the fact that your case is the first of its kind which has been brought before the Council . . . [it] has decided to deal leniently with you."¹²⁸ The GMC's method in issuing a warning notice only after first ruling against a single and then a group of shopkeeping doctors who employed unqualified dispensing assistants was typical of their procedures at this time. According to Smith, the GMC was not "a parliament for making professional laws"; instead, warning notices arose out of judgments already taken by the council and represented a "distillation of the ethical principles which emerged from those cases."¹²⁹

The keeping of dispensing shops, for so long an accepted part of private practice in many parts of Scotland, continued despite six years of prosecutions of unqualified assistants and the more serious threat to professional status provided by the GMC warning notice in December 1901: unsupervised, unqualified pharmaceutical assistants continued to sell scheduled poisons in doctors shops. At first glance, this may appear a strange decision given that in an overcrowded profession, qualified medical assistants were in abundance. For example, Digby has noted that between 1881 and 1911 the number of medical doctors in Britain rose by 63 percent. This was disproportionate growth in a professional class. In the same period, the numbers of qualified barristers and solicitors rose only 23 percent.¹³⁰ However, in Scotland incomes were traditionally

126. Smith, "Development of Ethical Guidance" (n. 14), 61.

127. GMC Minutes, vol. 45, November 23, 1908, 224-25.

128. GMC Minutes, vol. 38, June 5, 1901, 38.

129. Smith, "Development of Ethical Guidance" (n. 14), 61.

130. Digby, Making a Medical Living (n. 2), 143.

30 jacqueline jenkinson

lower.¹³¹ In these circumstances, it is unsurprising that the cheaper option of hiring unqualified assistants to dispense persisted. In 1901, according to the Chemist and Druggist, there remained an estimated 170 shopkeeping doctors in Glasgow.¹³² One method of avoiding prosecution following the GMC directive was proposed by Professor John Glaister at a meeting of the Southern Medical Society. He suggested that doctors should advertise that controlled poisons would be available for purchase only during set times of day when they were present in the shop.¹³³

The GMC warning notice of 1901 produced a period of introspection throughout the Scottish profession. The, by now, Royal College of Physicians and Surgeons of Glasgow (RCPSG) conducted an inquiry in 1902 into the circumstances of those college licentiates who kept open shop for dispensing. The report of the college council highlighted divergent interpretations of the profession's legal right to dispense between the RCPSG hierarchy and licentiates who employed unqualified dispensing assistants:

The Council . . . have to report that after due consideration, they find that the General Medical Council have no right to interfere with the rights of Licentiates of the Faculty to practice Pharmacy, and that no such interference has taken place.¹³⁴

The college licentiates who had pressed for the 1902 inquiry did not give up their case easily, and a few weeks later a deputation representing the newly formed "Association of Licentiates of the Faculty" again approached the RCSPG hierarchy to enlist its support for a campaign against the GMC warning notice. The deputation presented a memorial to the college council reasserting their historic right as licentiates to keep open shop.

Since the institution of the grade of Licentiate in 1785 a very large proportion of those licensed have been engaged in dispensing drugs to patients under their charge, and have kept open shops to all and sundry. In the city of Glasgow . . . as well as in the small towns and villages in Scotland, and some parts of England, and it is held by many to be impossible to get together or carry on a practice without such surgery and such sale of drugs.¹³⁵

131. Ibid., 166.

132. Chemist and Druggist, November 30, 1901, 888.

133. John Glaister (1856-1932), a graduate of Glasgow University, was a member of the Glasgow Southern Medical Society and a general practitioner in the Townhead area of

Glasgow. At the time of the controversy over shopkeeping doctors he was Regius Professor of Forensic Medicine and Public Health, a post he held from 1898 to 1931. <http://www.universitystory.gla.ac.uk/biography/?id=WH0232&type=P>, accessed June 7, 2010.

134. Glasgow Faculty of Physicians and Surgeons, Minute Book, March 3, 1902, RCPSG

1/1/12, emphasis added.

135. Glasgow Faculty of Physicians and Surgeons, Minute Book, April 7, 1902.

Dispensary Shopkeeping by Scottish General Practitioners 31

The College executive council took legal advice before producing a lengthy response to the licentiates' various concerns over the GMC directive. The RCPSG council pointed out that the college was not the only training institution involved in this issue since registered medical practitioners who practiced pharmacy included university medical graduates and licentiates of the other medical colleges.¹³⁶ It felt the college was being unfairly singled out to take a lead in any campaign against the GMC warning notice. While recognizing that "some of the alleged grievances have more or less justification," the council report was largely critical of many of the licentiates' arguments and distanced the college's fellows from the issue. In an apparent conscious reference to past divisions in medicine, the report referred to the dispensing doctors as "surgeon-pharmacists."

The report found the crucial aspect of the dispensing doctors' grievance: that in issuing the warning notice on December 2, 1901, the GMC had infringed the right of doctors to practice pharmacy, "to have no reasonable foundation."¹³⁷ The actions of the Glasgow medical licensing authority were in keeping with its desire to reinforce the standards of the profession as dictated by the GMC. The council of the RCPSG acted on behalf of its fellowship and its wider professional interests. The protracted protests on this issue by rank-and-file general practitioners who were licentiates of the college were of lesser importance.

However, local BMA involvement gave the general practitioners' campaign fresh impetus. In March 1902, the Glasgow and West of Scotland branch of the BMA supported ~~an proposed bill, ultimately unsuccessful, by the BMA council, [this has been changed from my original and makes no sense - it should read - the BMA supported an, ultimately unsuccessful, bill proposed by the BMA council]~~ which sought to increase representation of the profession on the GMC and a revision of its penal powers.¹³⁸ Political pressure continued when a group of Scottish medical practitioners affected by the GMC warning notice made a direct approach to the Privy Council, the government office responsible for GMC administration.¹³⁹ It sent a petition and protest letter to the Lord President, the Duke of Devonshire (Liberal Unionist leader William Cavendish), which described the "collusion" of the GMC and the Pharmaceutical Society to restrict the use by general practitioners of unqualified assistants to sell scheduled poisons

136. Report by the Council of the Faculty on remit respecting the practice of Pharmacy by Licentiates, no day, July 1902, RCPSG 1/11/3.

137. Ibid.

138. Brit. Med. J., March 8, 1902, 620.

139. The Privy Council, made up of Cabinet and other ministers, is an advisory body that meets regularly with the sovereign about government initiatives. It has administrative authority over the General Medical Council.

32 jacqueline jenkinson

as "partial and oppressive."¹⁴⁰ The petitioners believed that the GMC had exceeded its penal powers and contrasted the treatment of unqualified chemists' assistants who were merely fined following court actions raised against them, with the GMC ruling that doctors who continued with this practice faced the prospect of being struck off the Medical Register.

We look upon this notice as far beyond the scope of the interests confided to the care of the General Medical Council . . . [which] . . . is taking a greater interest in the administration of the Pharmacy Act than the Pharmaceutical Society itself.¹⁴¹

The petitioners also fired a broadside at the medical licensing colleges (no doubt with the RCPSC as the target) whose fellows had long since abandoned the right to dispense, yet this group had the final say on the rights of their licentiates via their representative membership of the GMC.¹⁴² Finally, the petitioners called the GMC a body unrepresentative of general medical practitioners' interests. The Southern Medical Society, which was the guiding agency in the memorial, asked its members to sign an accompanying petition to the submission.¹⁴³ The petition was signed by 133 medical practitioners resident in Glasgow and the west of Scotland. This was considerably fewer than the previous petition at the time of the Thomson case. The GMC executive council passed no recorded comment on the petition, which the Privy Council had simply forwarded to it, although it took a copy of the petition and its 133 signatories.¹⁴⁴

Pharmaceutical Society prosecutions of the unqualified assistants of general practitioners were restarted in 1903. The society's lawyer, Morison, stated that the society had for two years instituted no prosecutions for breaches of the Pharmacy Acts to give time for the GMC warning notice to take effect, but they "had reason to suppose that some medical men under cover of these unqualified assistants were breaking the law every day."¹⁴⁵ In June 1903, John Nicol, unqualified dispensing assistant to Edinburgh general practitioner John McCall, was fined two pounds and three shillings for selling a bottle of chloroform while unsupervised. Dr. McCall had kept an open shop for thirty years, with Nicol as his assistant for sixteen of them.¹⁴⁶ In November 1903 the society's agents, again pos

140. GMC Minutes, November 23, 1903, 248.

141. Ibid., 251.

142. Ibid., 253.

143. Glasgow Southern Medical Society Minutes, May 28, 1903.

144. GMC Minutes, November 23, 1903, 248.

145. Scotsman, November 13, 1903, 5.

146. Scotsman, June 24, 1903, 8.

Dispensary Shopkeeping by Scottish General Practitioners 33

ing as members of the general public, purchased laudanum and other scheduled poisons from the unqualified assistants of four Glasgow doctors.

The renewed prosecutions had little deterrent effect, and in 1905 the Lancet reported that legal actions by the Pharmaceutical Society had ceased and shopkeeping by doctors, sometimes covered by unqualified assistants, continued. By this time, the Lancet itself adopted a more pragmatic viewpoint than the one taken at the height of the dispute between Scottish practitioners and the GMC, with the intervention of the local BMA branch on this issue an apparent trigger for this change in approach. In August 1905 a Lancet report noted,

Protests against the view taken by the General Medical Council were addressed to the Council by influential members of the medical profession in Glasgow and possibly as a result of this the Pharmaceutical Society ceased actions . . . the conditions of life made the prosecution of this law . . . impossible to obey. To compel every medical man to keep a qualified assistant to dispense for him is not possible and the alternative course of employing a dispensing chemist cannot be insisted upon.¹⁴⁷

Long-term general practitioner resistance, when allied to action by the BMA, appeared to have loosened the restraints on doctors who kept open shops, although in 1908 a more stringent Poisons and Pharmacy Act, which demanded that every retail drug store employ a qualified chemist, was introduced. This legislation was principally aimed at the emerging national chain drug stores such as Jesse Boot's, but since the new act added to the list of restricted poisons, this too had implications for the activities of shopkeeping doctors.¹⁴⁸

Dispensing in open shops by Scottish doctors and their unqualified assistants continued, despite the GMC's 1901 ruling, because general practitioners could not afford to end this income source. Digby has noted that on the eve of the introduction of National Health Insurance legislation, one-fifth of all general practitioners in Britain "were struggling to achieve a viable income."¹⁴⁹ Indeed, although prescribing and dispensing were legislatively separated for doctors who enrolled in state-funded panel practice via the National Health Insurance Act of 1911, provision was made for local insurance committees to make special arrangements for doctors to

147. Lancet, August 1, 1905, 879.

148. Hansard, House of Commons Debates, vol. 197, December 3 1908, cc.1710-46, <http://>

hansard.millbanksystems.com/commons/1908/dec/03/poisons-and-pharmacy-billhl#

S4V0197P0_19081203_HOC_405, accessed June 16, 2010.

149. Digby, Evolution of British General Practice (n. 8), 14.

34 jacqueline jenkinson

dispense, for example, in rural areas that had no chemist in the locality.¹⁵⁰ For general practitioners in panel practice, one shilling and sixpence was included for the supply of drugs to the patient in the nine shillings per patient, per year, capitation fee offered by the government.¹⁵¹ This suggests that general practitioners under the health insurance scheme were permitted to make a case for continued retail dispensing.¹⁵² Over time, the operation of National Health Insurance eroded the twin reasons for doctors to maintain open shops; the "sick poor" now had more access to a general practitioner, and from the general practitioners' perspective, National Health Insurance general practice, an option accepted and warmly welcomed by far more doctors (and BMA members) in Scotland than in the rest of Britain, provided guaranteed income, which reduced the need to augment earnings from drug dispensing and other retail trade.¹⁵³ Digby has further suggested that the new scheme of health insurance marked a turning point for general practitioner incomes: "After the inception of the national insurance scheme in 1911, there may have been less financial pressure on doctors to look for a range of appointments."¹⁵⁴

In 1914 doctors were finally made fully aware of which aspects of dispensary shopkeeping were considered unacceptable professional conduct, when the GMC revised and consolidated its warning notices governing doctors' employment of unqualified assistants, including brief advice on the sale of poisons. After 1920 these warning notices were printed in the annual volumes of the Medical Register.¹⁵⁵

[close line gap here?]

This article has shown that retail dispensing was a central and long-standing aspect of general medical practice in parts of Scotland throughout the nineteenth and into the early twentieth centuries. Yet it has been little covered by historians of the medical profession, or by more recent secondary literature on making a medical living in this period, perhaps because keeping open shop was more ubiquitous and pervasive in Scotland than elsewhere in the British Isles.

150. Holloway, *Royal Pharmaceutical Society* (n. 11), 335.

151. Gilbert, *Evolution of National Insurance* (n. 7), 411.

152. Digby, *Evolution of British General Practice* (n. 8), 195.

153. On the ballot of BMA members held on December 12, 1912, on whether to continue to oppose the National Health Insurance arrangements, only two of eighty-eight divisions in England and Wales voted for acceptance of panel practice; in Scotland, eight of sixteen divisions voted for acceptance. Jenkinson, *Scottish Medical Societies* (n. 81), 101.

154. Digby, *Evolution of British General Practice* (n. 8), 103.

155. Smith, "Development of Ethical Guidance" (n. 14), 61.

Dispensary Shopkeeping by Scottish General Practitioners 35

Hundreds of general practitioners formed a range of pressure groups that challenged vested professional interests in the dispute over doctors keeping retail stores. These included ad hoc committees of general practitioners

set up to press the medical hierarchy on this bread-and-butter issue, as well as existing medical societies representing their members' interests, particularly the Glasgow Southern Medical Society, which was distinctive in being a medical society formed to represent general practitioners.

The Scottish medical colleges throughout acted to preserve their own status, and on the occasions this coincided with the aims of shopkeeping doctors, they supported this group. The GMC was prompted into action by the Pharmaceutical Society of Great Britain, which argued that the employment by doctors of unqualified dispensing assistants was a form of professional "covering." The BMA's reaction to the controversy over shopkeeping doctors fluctuated according to whether the statements given emanated from local or national representatives. The medical press, while grudgingly accepting their right to do so, also voiced concerns about

how shopkeeping by doctors affected the perceived status of the medical profession as a whole.

By the beginning of the twentieth century there were few defenders of the rights of shopkeeping doctors outside of those engaged in general practice. This was because organized elements within this substantial group of practitioners sought, on a point of professional principle, to alter

the legal interpretation of the Pharmacy Acts and transfer responsibility from their unsupervised, unqualified assistants who sold restricted poisons,

to themselves, even when absent from their shops. By this stage the vestige of the argument that general practitioners were using their shops to provide a popular "public health" service was abandoned and the focus was firmly on professional and crudely economic considerations. The doctors who kept open shop vocally resisted prosecution of their unqualified

employees by the Pharmaceutical Society. This group of doctors also endured the embarrassment of having their profession's own governing body act against them, via the warning notice of gross professional misconduct

issued by the GMC, while the same body refused to hear their counterarguments. A consequence of the anger this engendered was fed into the campaign to make the GMC more representative.

Scottish doctors who as a result of their well-established broad medical training were in a position to keep open shops for dispensing purposes, and who were encouraged through the economic realities of an overcrowded profession to retail controlled drugs and other goods, were in the short term faced with the prospect of further outlays in employing qualified dispensing assistants or having to rein in this aspect of their

36 jacqueline jenkinson

retail activities to the hours when they were present in the shop. In the longer term, the improvement in income sources following the introduction of the National Health Insurance panel system brought to an end the practice of keeping open shop for all but those in rural, scattered populations. It was the entrance of the state in funding general practice that finally put paid to the pervasive practice of the general practitioner as both medical professional and retailer.

jacqueline jenkinson is a lecturer in history at the University of Stirling, Scotland. Her research interests are in the social history of medicine and the history of minority ethnic groups in Britain in the nineteenth and twentieth centuries, on which she has published numerous articles and contributed several book chapters. Her monograph publications are *Black 1919: Riots, Racism and Resistance in Imperial Britain* (Liverpool University Press, 2009), *Scotland's Health 1919-1948* (Peter Lang, 2002), and *Scottish Medical Societies 1731-1939: Their History and Records* (Edinburgh University Press, 1993). She also coauthored, with M. S. Moss and I. Russell, *The Royal: Glasgow Royal Infirmary 1794-1994* (GRI Trust, 1994).

