



Pharmacy Contracting Team
Directorate of Commissioning Operations
NHS England
St Chad's Court
213 Hagley Road
Birmingham
B16 9RG

25 January 2019

Dear Contractor

RE: Dispensing Prescriptions: Patient Choice, Consent and Communication

This letter is in response to a gradually increasing number of concerns being reported to NHS England regarding

- ❖ electronic prescription service (EPS) nominations,
- ❖ influencing of where prescriptions are dispensed
- ❖ data protection/patient consent breaches
- ❖ supplementary clinical information (“patient messages”) relayed via electronic prescriptions

I am writing to ask for your help in ensuring that all patients (and carers) i) are aware of their right to choose freely where their prescriptions are dispensed ii) can exercise this right without influence and iii) receive ALL supplementary clinical information which the Prescriber has provided for inclusion on the electronic prescription.

NHS England has been working in collaboration with the General Practitioners Committee (GPC), General Medical Council (GMC), Pharmaceutical Services Negotiating Committee (PSNC), General Pharmaceutical Council (GPhC) and NHS Protect to look at ways to ensure patients' rights are not undermined.

Following changes in General Data Protection Regulation (GDPR) and a small, though increasing number of reported cases, West Midlands' Cluster of Local Pharmaceutical Committees and NHS England (West Midlands) would like to remind contractors and their staff of the following four principles set out by NHS Digital and NHS England:

Principle 1. Patients must be provided with sufficient information about the Electronic Prescriptions Service (EPS) before nomination is captured.

Principle 2. Patients must not be influenced or persuaded to nominate a specific dispensing contractor and inducements cannot be offered.

Principle 3. Prescribers and dispensing contractors will need to capture, set, change, cancel and reconfirm a patient's nomination request in a timely manner.

Principle 4. Prescribers and dispensing contractors must establish clear Standard Operating Procedures (SOPs) for nomination.

Where written consent cannot be given, verbal consent must be obtained with the following information recorded on the Patient Medical Record system so that an audit trail is available:

1. Date and time consent given
2. Name of person who gave consent – patient or representative.
3. Follow with written consent

We all have a duty to ensure patients' rights under the NHS Constitution are met and NHS England takes very seriously any attempt to undermine this. Going forward, nomination reports and NHS Business Services Authority data, as appropriate, will be regularly reviewed. Please be advised that any access to or use of patient information without their express consent (for example, inappropriate nominations) is a data protection breach.

Specific information and advice for distance-selling pharmacies (DSPs) is enclosed, acknowledging the differences with this pharmacy model compared to "traditional" pharmacies. For example, the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 sets out specific operating conditions, including that DSPs must offer essential services to people based anywhere in England, but these cannot be provided face to face. Also, in their publicity material, DSPs must not expressly state or imply that the essential services provided are only available to persons in particular areas of England.

A further matter that has been brought to the attention of NHS England (West Midlands) involves key supplementary clinical information not being printed and/or relayed to patients (or carers). Under your terms of service, you MUST ensure that clinical advice/information included by the Prescriber on EPS is relayed to patients (or carers). Please ensure that your staff are aware that this needs to be checked and actioned. You may wish to update your standard operating procedures.

If you are aware of a situation where the right of patients to choose where their prescriptions are dispensed is being influenced we would encourage you to advise affected patients to make a complaint to NHS England via: england.contactus@nhs.net As a contractor we would suggest you approach, in the first instance, your Local Medical Committee and Local Pharmaceutical Committee.

Many thanks for your help with this important awareness raising.

Yours Sincerely

M Deenah

Michelle Deenah
Senior Commissioning Manager
NHS England (West Midlands)

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