

BMA statement on misleading advertising and prescription direction

BMA Policy directorate



Concerns have been raised with us about communications from online distance selling pharmacies which could be seen as misleading advertising and prescription direction. Some GP practices have received letters from Docmail asking them to include a leaflet from Pharmacy2U in their flu vaccination invitation letters to patients in exchange for benefitting from preferable postage rate. The leaflet from Pharmacy 2U invites patients to get repeat prescriptions through their distance selling online pharmacy.

We are concerned that this could constitute direction of prescriptions. The term 'direction of prescriptions' is used to describe undue influence over the choice of where a patient takes or sends their prescription to be dispensed. Pharmacy owners and pharmacists are prohibited under the NHS (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 from encouraging medical practitioners to recommend their pharmacy, by way of offering a gift or reward. In this case, Docmail and Pharmacy2U appear to have offered an inducement for GP practices to advertise Pharmacy2U services. A patient could be led to believe that their GP was recommending Pharmacy2U.

If a practice accepted that offer, they could be in breach of the GMS contract which prohibits a practice from recommending or endorsing the services of Pharmacy2U or any other specific pharmacy (Clause 14.4.4 prohibits a prescriber from recommending a particular pharmacy to dispense prescriptions).

Also brought to our attention are letters being sent by Pharmacy2U directly to patients containing details of local practices and inviting them to get repeat prescriptions via their pharmacy. The BMA shares the concerns raised that these letters could give the misleading impression of being instructive, official NHS communication, rather than advertising. Patients should have a free choice between any community pharmacy or GP dispensary (if eligible), and actions by either practices or pharmacies seeking to influence a patient's choice of pharmacy could undermine relationships with patients, as well as damage the trust and cooperation between healthcare professionals. We would also recommend that, since there is no reference to misleading patients in the NHS (Pharmaceutical and Local Pharmaceutical Services Regulations 2013, this needs to be addressed by the Department of Health and Social Care.

We have written to NHS England who have confirmed that Pharmacy2U is on the NHS England Pharmaceutical List and as such is permitted to provide NHS funded pharmaceutical services to patients through a 'distance selling' model (not provide essential services to a person who is present at the pharmacy, or in the vicinity of it). NHS England have advised us that when distance selling companies recruit patients to their services they must 'ensure that the patient makes an informed decision and understands what they are signing up to'.

NHS England has investigated the issue of a potential direction of prescriptions arising from the Docmail/Pharmacy2U offer, which they consider might be in breach of relevant pharmacy regulations covering inducement, as well as raising potential data sharing issues. NHS England does not believe that this arrangement is acceptable for either an NHS pharmacy or general practice to participate in and will therefore brief primary care teams to ensure a consistent approach.

The GP Committee would advise that practices do not engage with Docmail/Pharmacy2U's offer which in our opinion, would place them at high risk of breaching the GMS regulations prohibiting directions of prescriptions. We have also communicated this to Pharmacy2U.

You can also read our joint statement with PSNC on [prescription direction here](#).