

NHS Trust CEs
NHS Trust FDs
NHS Trust Chief Pharmacists

CC: NHS FT CEs
SHA CEs
SHA FDs
SHA Pharmacy/Prescribing Leads
Monitor

Gateway reference 13724

25 February 2010

Dear Colleague

EXPORTING MEDICINES FOR PROFIT

I understand that NHS organisations are being approached by distributors who are seeking to buy medicines for export. Whilst I can understand that the profits available in entering such agreement may appear attractive, the consequences for the wider NHS and, most importantly, patients are potentially very serious.

We have for several months been experiencing difficulties in the supply of a number of medicines and in some cases patients are suffering delays in getting hold of medicines. At the root of these supply difficulties is a reduction in imports to the UK and an increase in exports as a result of price differentials between the UK and the rest of Europe as a result of exchange rate changes. NHS organisations engaging in the trade of medicines risks contributing to and exacerbating these supply difficulties. Please ensure your organisation is not engaged in such activities and has no plans to do so in the future.

You should be aware that NHS organisations who hold a wholesale dealer's licence, are bound by Regulations¹ relating to the supply of medicinal

¹ Regulation 8(1)(b) of The Medicines for Human Use (Manufacturing, Wholesale Dealing and Miscellaneous

products. If a licence holder chose to trade medicines for export that are in short supply in the UK and as a consequence the needs of patients in the UK were not met, they could be in breach of the Regulations, and could face regulatory action against their licence, and/or criminal prosecution.

You should also be aware that the NHS benefits from preferential rates under contracts negotiated centrally by the NHS Commercial Medicines Unit (NHS CMU, formerly NHS PASA). Selling on of medicines at NHS preferential

¹ Regulation 8(1)(b) of The Medicines for Human Use (Manufacturing, Wholesale Dealing and Miscellaneous Amendments) Regulations 2005 No 2789

prices risks breaching the terms of those contracts and it jeopardises the terms we may be able to secure in future contracts.

In addition, the DH Chief Pharmaceutical Officer, Dr Keith Ridge, has advised me that pharmacists who place profit before patient care will be in breach of their professional obligations, and may well be called before their professional regulator to justify their actions. NHS senior managers should therefore also bear in mind the consequences for professional colleagues of implementing savings schemes based on exporting medicines. Following on from his letter of 14 July 2009, where he set out these duties, the Chief Pharmaceutical Officer will be writing again to all NHS hospital Chief Pharmacists.

You should therefore not be entering into any agreements to sell on or supply medicines for export where this risks jeopardising patient care or where these products have been purchased on NHS contracts. Providing your organisations has the necessary authorisations, this should not prevent you from supplying medicines to other healthcare organisations for use by patients and it should not prevent you selling on or supplying medicines where your organisation has a genuine surplus of stock.

Monitor are writing in similar terms to NHS Foundation Trusts.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Nicholson', written over a thin vertical red line.

Sir David Nicholson KCB CBE
NHS Chief Executive

