

CONSULTANT IN PALLIATIVE MEDICINE v PROSTRAKAN

Conduct of representative

A consultant in palliative medicine complained that a representative from ProStrakan, when trying to book an appointment, had inaccurately told his secretary that he and the representative were working together on a symptom control guideline.

The detailed response from ProStrakan is given below.

The Panel noted that the parties' accounts differed with regard to what the representative had stated about the production of the treatment guidelines. The complainant had not been party to the conversation. The Panel noted the difficulty in dealing with complaints based on one party's word against the other; it was impossible in such circumstances to determine precisely what had happened.

The Panel noted that the introduction to the Constitution and Procedure stated that a complainant had the burden of proving their complaint on the balance of probabilities. The complainant had provided no evidence to support his allegation and had accepted that the matter might be a case of miscommunication. The Panel considered that it had not been established that, on the balance of probabilities, the representative's conduct had been in breach of the Code as alleged. No breaches of the Code were ruled.

The Panel noted that ProStrakan had also been asked to consider the requirements of the Code which stated that in seeking appointments, representative must not mislead as to their identity or that of the company they represented. The Panel noted that in this case the complainant and his secretary appeared to be clear as to the representative's identity and that of the company. The Panel ruled no breach of the Code.

A consultant in palliative medicine, complained about the conduct of a representative from ProStrakan UK Ltd.

COMPLAINT

The complainant stated that the representative had tried to arrange an appointment with him via his secretary and that his secretary had been inaccurately told that the complainant and the representative were working together on a symptom control guideline. The complainant apologised if he was mistaken, but he could think of no explanation other than a deliberate attempt to mislead. The complainant, therefore, queried whether there had been a breach of the Code.

When writing to ProStrakan, the Authority asked it to respond in relation to Clauses 9.1, 15.2 and 15.5 of the Code.

RESPONSE

ProStrakan submitted that it took its responsibilities under the Code very seriously and on receipt of the complaint it immediately investigated the complainant's concerns. The representative and his manager were both interviewed. The interviews indicated that the representative met the complainant's secretary in September 2012 in order to book a meeting with the complainant. However, at no point during their conversation did the representative claim that he (or any other ProStrakan employee) was working with the complainant on a symptom control guideline as alleged. The representative mentioned the guideline in question but only in order to explain that he wished to offer the complainant up-to-date product information on Abstral (fentanyl citrate).

ProStrakan submitted that the representative had contacted the secretary as he had been informed that this was the correct way in which to book an appointment with the complainant. The representative had not yet met the complainant but had heard that he was putting together guidelines on pain management in palliative care. As the complainant worked for a palliative care service and ProStrakan had a product in this therapy area, the representative wished to contact the complainant in order to ensure that he had the most current information on Abstral.

On arriving at the building in which the complainant and his secretary worked, the representative introduced himself to the receptionist and asked if it would be possible to talk to the secretary. The receptionist rang the secretary who came down to the reception area to talk to him. The representative introduced himself and stated that he was a representative from ProStrakan. He produced his business card and asked if it would be possible to make an appointment to see the complainant; he explained that he had heard that the complainant was working on pain guidelines and that he wished to offer him up-to-date product information on Abstral. The secretary stated that it was not possible to book an appointment with the complainant and so the representative asked if there was another way to contact him. In response to this the secretary offered her own email address and stated that she would pass any information provided on to the complainant.

The representative's manager was present during this conversation as he was on a field visit that day. The above account was corroborated by the manager who was interviewed separately. When questioned directly regarding the representative's conduct with customers, the manager stated that he had never had any concerns in this regard despite having managed the representative for five years.

During the interviews both employees were asked about what had specifically been said during the conversation about the production of treatment guidelines. Both replied that the guidelines had been mentioned but only in the context described above. Neither employee claimed to have been involved in the production of the guidelines, or to have worked on them in collaboration with the complainant. The conversation in question lasted only a few minutes, after which both employees left. No emails had been exchanged with the complainant's secretary.

ProStrakan stated that it did not produce specific written instructions to representatives about asking for appointments. All ProStrakan representatives were observed regularly on field visits by their manager to ensure that high standards were maintained at all times.

Whilst ProStrakan respected the complainant's view, and thanked him for taking the time to discuss the issue, it believed that the complaint in this case had arisen from a miscommunication. ProStrakan assured the complainant that, while it appeared that a miscommunication had occurred, there was never a deliberate attempt to mislead.

Given the account of the conversation above, ProStrakan submitted that the representative had acted in accordance with the Code and had at all times maintained high standards. The company denied breaches of Clauses 9.1 and 15.2.

ProStrakan submitted that when he introduced himself to the complainant's secretary, the representative took all reasonable steps to ensure that he was clear as to who he was and why he wished to book an appointment with the complainant. A business card was produced in order to further clarify these details. ProStrakan thus denied a breach of Clause 15.5.

FURTHER COMMENTS FROM THE COMPLAINANT

In response to a request for comments upon ProStrakan's submission, the complainant stated that on speaking to his secretary and the receptionist, both stood by their accounts of the meeting with the representative. The complainant stated that ProStrakan's suggestion that this was an example of

miscommunication therefore seemed reasonable in that the two groups clearly had different recollections of what was said. The complainant noted, however, that as the conversation was not recorded, there could only be speculation as to what was said.

PANEL RULING

The Panel noted that the parties' accounts of what the representative had stated with regard to the production of the treatment guidelines differed. The complainant had not been party to the conversation. The complainant had been sent a copy of ProStrakan's submission and on speaking to his secretary and the receptionist, they both stood by their version of events. The Panel noted the difficulty in dealing with complaints based on one party's word against the other; it was impossible in such circumstances to determine precisely what had happened.

The Panel noted that the introduction to the Constitution and Procedure stated that a complainant had the burden of proving their complaint on the balance of probabilities. The complainant had provided no evidence to support his allegation and had accepted that the matter might be a case of miscommunication. The Panel considered that it had not been established that, on the balance of probabilities, the representative's conduct had been in breach of the Code as alleged. The Panel thus ruled no breach of Clauses 9.1 and 15.2.

The Panel noted that ProStrakan had also been asked to consider the requirements of Clause 15.5 which stated that in seeking appointments, representative must not mislead as to their identity or that of the company they represented. The Panel noted that in this case the complainant and his secretary appeared to be clear as to the representative's identity and that of the company; ProStrakan had submitted that the representative had used his business card. The Panel ruled no breach of Clause 15.5.

Complaint received	19 September 2012
Case completed	6 November 2012