

**COMPLAINANT v B BRAUN****Allegations about conduct of representatives****CASE SUMMARY**

This case was in relation to B Braun and the conduct of two of its sales representatives when interacting with hospital staff at two hospital locations.

The outcome under the 2024 Code was:

No Breach of Clause 5.1	Requirement to maintain high standards at all times
No Breach of Clause 17.2	Requirement that representatives must not employ any inducement or subterfuge to gain an interview
No Breach of Clause 17.4	Requirement that in an interview or when seeking an appointment for one, representatives must take reasonable steps to ensure that they do not mislead as to their identity or that of the company they represent

**This summary is not intended to be read in isolation.  
For full details, please see the full case report below.**

**FULL CASE REPORT**

A complaint about B Braun Medical Ltd was received from a contactable complainant who described themselves as a specialist pharmacist.

**COMPLAINT**

The complaint wording is reproduced below with some typographical errors corrected:

“I would like to raise a complaint against B Braun and its company representatives for recent behaviours that either breach ABPI regulations or are not the behaviours I would expect from a professional relationship between a pharmaceutical company and an NHS hospital.

The behaviours are as follows:

- Lying to theatre staff in order to gain access to theatre areas claiming to have meetings with theatre pharmacy staff where no meeting has been arranged. Breaches ABPI Clause 17.2: *Representatives must not employ any inducement or subterfuge to gain an interview.* This has happened on more

than one occasion, this is unacceptable and given our concerns over security in our clinical areas this is incredibly serious.

- Sending communications undermining the decision taken by the specialist pain governance team and consultant anaesthetist involved in said team as evidenced by the email trail attached.
- Repeatedly emailing and calling multiple pharmacy staff asking for where their product is stored and why we are not using more of their product. This is information we do not have to share but they repeatedly asked for the same information.
- Bringing in promotional materials to theatre areas that are not requested, not needed and pose an infection control risk for the areas they were proposing to leave them
- Sending emails with rumours of competitors' products being discontinued. This on its own wouldn't actually be anything substantial but with the previous behaviours and the amount of pushing of their product makes me feel that this is trying to influence key anaesthetists to not trust in current availability of competitors drugs.

As a hospital we want to retain a professional working relationship with company representatives. The behaviours exhibited have bordered on harassment, subterfuge and trespass and really shakes the trust of pharmacist, doctors and other staff from allowing these individuals onto our premises. It has got to the point I am contacting other hospitals within the [named area] and asking them to make complaints if they have experienced similar behaviour because I think it is unlikely that we are the only ones to experience it.

I have approached the hospital staff involved in the email trails with B Braun and they have agreed for me to forward these email chains with their names removed for anonymity. My anonymity is not required, I have directly asked two representatives from the company to stop these behaviours and I will agree to have my name visible on the complaint. This behaviour needs to stop now."

When writing to B Braun, the PMCPA asked it to consider the requirements of Clauses 17.2, 17.4 and 5.1 of the 2024 Code.

## **B BRAUN'S RESPONSE**

The response from B Braun is reproduced below:

"I am writing in response to the complaint referenced above concerning the alleged non-compliant conduct of our pharmaceutical representatives in line with the ABPI Code of Practice. B. Braun operates to the highest ethical standards and takes compliance with regulations extremely seriously.

After a thorough investigation of the complaint and the evidence provided, we do not believe that our representatives have behaved in a manner which has breached the ABPI Code of Practice.

Our investigation included a detailed examination of the interactions in question, as well as a review of the attached evidence.

Our conclusions with respect to each of the points raised are as follows:

**Allegation 1:** 'Lying to theatre staff in order to gain access to theatre areas claiming to have meetings with theatre pharmacy staff where no meeting has been arranged.'

**B. Braun response:** We cannot identify any evidence that would support this allegation. On 30th September 2024, one of the representatives in question (BB Rep 1) attended a journal club at the request of [named hospital].

During the journal club meeting, [they were] informed by several consultant anaesthetists that they were not aware where IV ibuprofen was being stocked for them to be able to access it despite it being listed on the [named Trust] Formulary. Subsequently, BB Rep 1 visited Maternity Theatres Reception where [they] used the relevant intercom system to ask permission to speak to an [hospital staff] who would be able to confirm the details of the person responsible for managing the stock holding of IV Ibuprofen in this area.

BB Rep 1 identified [themselves] and the company [they were] representing and explained the purpose of [their] visit. [They were] granted access through the external door and was told to wait by the staffroom for an [hospital staff]. The [hospital staff] advised [they were] unable to assist and that [they] would need to speak directly with the [theatre manager].

The [hospital staff] gave BB Rep 1 directions to the [theatre manager's] office. [They] proceeded to use the intercom system for the [theatre manager], introduced [themselves], explained why [they were] there and was then taken by a staff member to the [theatre manager's] office. [They] spoke with the [theatre manager], who said [they] wasn't able to assist [them] and that BB Rep 1 would need to speak with the Pharmacy staff member who was located across the main corridor. [They] then went across and knocked but nobody was in the office. There was a chair located outside. [They] sat for a short while (approx. 5 mins) and made a telephone call to the relevant Pharmacy staff member. Following this telephone conversation the next communication is an email, sent from the Pharmacy staff to BB Rep 1 on the 10th October.

This was BB Rep 1's first and only visit to this hospital site, therefore this could not have occurred on more than one occasion as stated by the complainant. The representative did not lie, offer any inducement or subterfuge to gain an interview or access to any of the clinical areas as suggested by the complainant, nor was any fee paid or offered for an interview. Also noted above is that the representative at no point hid [their] identity and made it clear to all [they] spoke with who [they were], the reason [they were] there and the company [they were] representing. Hence we believe that there was no breach of either 17.2 or 17.4 as a result.

**Allegation 2:** 'Sending communications undermining the decision taken by the specialist pain governance team and [hospital consultant] involved in said team as evidenced by the e-mail trail attached.'

**B. Braun response:** We cannot identify any evidence that would support this allegation. The B. Braun representative responded to concerns raised by consultants at a journal club that theatres had no stock of IV ibuprofen. [They] then liaised with the

relevant people to ascertain if that was the case. During [their] investigations, [they] discovered that the IV ibuprofen was stored in main recovery rather than theatres. [They] realised that there was a communication mismatch in that there was ibuprofen available but the consultants did not know it was stored in a different place.

[They] thus [were] working with relevant staff members to ensure that information was available so that consultants would know it was stored somewhere else if they then needed it rather than assuming there wasn't any available. There would not appear to be any evidence that [they] had undermined any decisions made by the staff.

**Allegation 3:** 'Repeatedly e-mailing and calling multiple pharmacy staff asking for where their product is stored and why we are not using more of their product. This is information we do not have to share but they repeatedly asked for the same information.'

**B. Braun response:** B. Braun have evidence of e-mails responding to concerns raised by consultants at a journal club that theatres had no stock of IV ibuprofen. As indicated above, the representative investigated the concerns and, realising there was an information gap, liaised with the relevant staff members to ensure that consultants knew where the ibuprofen was stored. The CRM and e-mail records confirm the e-mail chain. As per the information supplied, over a 10 month period, the B. Braun representative initiated 5 e-mails which were sent directly to a Pharmacy staff member. Other e-mails in the chain were responses to e-mails from [named hospital] staff. Pharmacy staff members were cc'd into replies in the chain as they were already included by other clinicians in the earlier email threads. In relation to phone calls, the B. Braun representative has only made 1 telephone call to Pharmacy regarding this product this year as mentioned in the response above.

**Allegation 4:** Bringing in promotional materials to theatre areas that are not requested, not needed and pose an infection control risk for the areas they were proposing to leave them.

**B. Braun response:** We cannot identify any evidence that would support this allegation. Educational (not promotional) materials were requested by [named hospital] staff as they believed there was a need for them. All information posters adhere to NHS guidelines and are always provided within sealed laminates to allow for cleaning to minimise infection control risks.

On August 8th 2024 BB Rep 1 delivered awareness posters (a maximum of 3) to the Anaesthetic Secretary @ the [named hospital] and asked for these to be placed in the staffroom following a verbal suggestion from a Consultant Anaesthetist to do so. These were to be put on the notice board for staff awareness in the Theatre staff room. These were not intended to be placed in a clinical / clean area hence there was no infection control risk.

On October 10<sup>th</sup> 2024, a further request via email was received from a Consultant Anaesthetist, again suggesting for posters to be made available to provide information regarding the product storage locations. In response to this email posters were produced and laminated. However, these were never delivered as confirmation was awaited from the consultant anaesthetist as to where they should be delivered to.

**Allegation 5:** Sending e-mails with rumours of competitor products being discontinued. This on its own wouldn't actually be anything substantial but with the previous behaviours and the amount of pushing of their product makes me feel that this is trying to influence key anaesthetists to not trust in the current availability of competitor drugs.

**B. Braun response:** We cannot identify any evidence that would support this allegation. A pharmacy memorandum was circulated at another Trust on 10th October 2024. It stated that an alternative (competitor) non-steroidal anti-inflammatory (NSAID) had been discontinued. It indicated that once the competitor stock had been exhausted, IV ibuprofen (of which B. Braun is a supplier) would be used instead.

As a supplier of critical medicines to the NHS, B. Braun have a responsibility to understand and explore any potential stock shortages in the market to allow us to react by increasing the availability of alternative products minimising patient risk from medicine shortages.

The email sent by BB Rep 2 was to a Consultant Anaesthetist who is known to them and who they have had previous correspondence with. This particular Consultant Anaesthetist had not been involved with any of the decision making or previous emails regarding IV Ibuprofen. The point of the e-mail was to investigate whether a similar situation might be happening at other Trusts and, if so, to pass the information back to head office to ensure that sufficient stock could be made available to cover any shortfall. At no point in the email was it suggested that they use IV Ibuprofen as an alternative.

The purpose was simply an email asking if they could confirm or deny the information we had been given by another NHS Trust. The email was sent in good faith and was simply trying to establish if B. Braun needed to put a plan in place to make more product available to the NHS to cover any shortfalls in the market.

Please find attached a number of supporting documents including CRM records and e-mail correspondence relevant to the interactions referred to by the complainant. Also enclosed are the representative's training records and qualifications. We have enclosed the summary of product characteristics for IV ibuprofen 200mg and 400mg. A supporting investigation and document tracker is also enclosed.

B. Braun takes complaints extremely seriously. To ensure that all representatives are operating to the highest standards, we have taken this opportunity to conduct refresher training for all representatives again on the ABPI Code of Practice 2024, B. Braun's briefing material for representatives and guidelines on representative calls and interactions."

## **PANEL RULING**

This complaint, received from a specialist pharmacist at a hospital, concerned the conduct of two sales representatives at B Braun and their interactions with hospital staff at two hospital locations. The Panel ruling refers to the allegations 1-5, as set out in the complainant's five bullet points, and referred to as allegations 1-5 in B Braun's response. The ruling also refers to

the two representatives complained about as “Representative 1” and “Representative 2”. The allegations were as follows:

- Allegation 1: Lying to theatre staff to gain access to theatre areas and claiming to have meetings with theatre staff when no meetings had been arranged.
- Allegation 2: Sending communications undermining the decisions of the specialist pain governance team and consultant anaesthetist.
- Allegation 3: Repeatedly emailing and calling pharmacy staff to ask where stock is stored and why more of their products were not being used.
- Allegation 4: Bringing promotional materials to theatre, which were not requested, needed and posed an infection risk.
- Allegation 5: Sending emails to staff with rumours of competitor products being discontinued.

**Allegation 1: Lying to theatre staff to gain access to theatre areas and claiming to have meetings with theatre staff when no meetings had been arranged**

The Panel considered the Customer Relationship Management (“CRM”) records and emails provided by B Braun in response to this complaint and noted that there were in-person visits by Representative 1 to hospitals on the following occasions:

- 8 August 2024 – Representative 1 visited a hospital to deliver IV ibuprofen awareness posters as requested by a Consultant Anaesthetist. B Braun submitted that Representative 1 attended the Anaesthetic Secretaries’ office to deliver the posters and was asked to take them in. The posters were left with a staff member, and no restricted clinical areas were accessed.
- 30 September 2024 - Representative 1 was invited by a Consultant Anaesthetist to attend and sponsor a ‘journal club’ at a hospital. During the journal club, Representative 1 was informed by consultant anaesthetists that they did not know where IV ibuprofen was stocked for them to access it.
- 10 October 2024 – Following the above journal club discussion, Representative 1 visited the hospital to establish who was the responsible person for organising the stock for IV ibuprofen for the relevant departments. B Braun submitted that, during this visit, Representative 1:
  - Visited the Maternity Theatres reception where they used the intercom system to identify themselves and the purpose of the visit.
  - Was granted access and told to wait by the staffroom for an [hospital staff]. The [hospital staff] explained that they could not assist and advised Representative 1 to attend the [theatre manager’s] office; they were unable to assist and was told to speak with a pharmacy staff member.
  - Was not able to speak to anyone at the Pharmacy staff member’s office.
  - Phoned a pharmacy staff member and then followed this up with an email.

The Panel noted that Representative 1 visited theatres at the hospital on 8 August 2024 (to deliver awareness posters) and 10 October 2024 (to follow-up on queries regarding the location of stock). From the CRM records and emails provided by B Braun, it was apparent that on 10

October, Representative 1 only entered the maternity theatre reception area and then proceeded to visit two other offices. The Panel could not determine any instance where Representative 1 had been dishonest in their intention and purpose for the visits, nor had the complainant provided any evidence to substantiate an allegation that dishonesty had occurred.

The Panel noted that it appeared that much of this case related to one party's word against another. It was often difficult in such cases to determine where the truth lay. As stated in the introduction to the Constitution and Procedure, a complainant had the burden of proving their complaint on the balance of probabilities and a judgement had to be made on the available evidence, bearing in mind the extreme dissatisfaction usually necessary on the part of an individual before they were moved to actually submit a complaint.

The Panel noted that it was clear that the complainant had been upset and this was most unfortunate. The Panel was concerned that a pharmacist had felt the need to escalate this matter to a complaint to the PMCPA.

Nonetheless, given the information before it, the Panel determined that it had not been established, on the balance of probabilities, that the representative had employed subterfuge in their interaction nor misled as to their identity. On that basis, in relation to allegation 1, the Panel ruled **no breach of Clause 17.2 and Clause 17.4.**

Allegation 2: Sending communications undermining the decisions of the specialist pain governance team and consultant anaesthetist

Allegation 3: Repeatedly emailing and calling pharmacy staff to ask where stock is stored and why more of their products were not being used

The Panel considered that these two allegations overlapped and therefore considered them together.

The complainant explained that allegation 2 was evidenced by the email trail between 1-10 October 2024 that they had provided as part of their complaint. As part of its response, B Braun had provided a longer version of that email trail; up to 17 October 2024. That email trail involved Representative 1 stating that they had been informed at the 30 September 2024 journal club about stock concerns of the IV ibuprofen.

The Consultant Anaesthetist replied to the email on the same day, clarifying that the IV ibuprofen had been stored elsewhere due to lack of space in theatre cupboards and that they would try and inform the department that this was the case. Representative 1 then responded by email the same day offering to help inform the department and provide additional posters with storage information and internal communications. The Pharmacy Technician, copied into all the emails, then responded on 10 October 2024 to explain the storage issues in theatres and that the Pharmacy team would try and keep theatre cupboards stocked up.

Following this, there was an email response from a Consultant Anaesthetist to suggest posters could be put up in theatres to state the IV ibuprofen's available locations. Representative 1 responded to say that they could deliver the posters the following day. A Pharmacy staff member then emailed on 15 October explaining storage issues within theatre cupboards which are maintained by Pharmacy staff. Representative 1 responded on 17 October to explain that they understood the constraints and would deliver posters specifying the storage location in the next few weeks.

The Panel's conclusion on this correspondence between Representative 1, the Consultant Anaesthetist and Pharmacy staff, was that Representative 1 was doing nothing more than offering to support the hospital staff to locate stock of the IV ibuprofen, and make sure the relevant people knew where it was stored. The Panel did not consider that this amounted to undermining any decision taken, nor did it amount to repeated emails that were inappropriate.

The Panel also considered the email evidence provided by B Braun and noted that from March 2024 until October 2024, Representative 1 initiated five emails to hospital staff regarding the IV ibuprofen. The rest of the emails were responses to sponsoring and attending the journal club and responses relating to the storage/stock issues raised by Consultant Anaesthetists at the journal club.

Given the above, the Panel concluded that the complainant had not established their complaint that there had been a failure to maintain high standards by B Braun in relation to its representative's interactions with hospital staff. For allegations 2 and 3, the Panel ruled **no breach of Clause 5.1**.

Allegation 4: Bringing promotional materials to theatre, which were not requested, needed and posed an infection risk

The complainant alleged that Representative 1 delivered promotional materials to theatres at the hospital that had not been requested or needed and thus posed an infection risk. In its ruling above, the Panel found that Representative 1 was asked to bring in the posters and they left them with a staff member who agreed to display them in the staff room.

The Panel noted that on 10 October 2024, a Consultant Anaesthetist emailed Representative 1 and asked if posters could be provided to inform the department where the IV ibuprofen would be located. This followed on from the journal club meeting where consultants had informed Representative 1 about the lack of stock. However, the investigation completed by B Braun explained that the posters were not delivered as a delivery location was not identified by the consultant.

Given the evidence that consultants had actually requested the posters, and the absence of evidence that posters had been provided in such a way as to create an infection risk, the Panel ruled **no breach of Clause 5.1** in relation to allegation 4.

Allegation 5: Sending emails to staff with rumours of competitor products being discontinued

The complainant alleged that Representative 2 had emailed a Consultant Anaesthetist with a rumour of a competitor product being discontinued. The complainant provided one email dated 25 October 2024 to support this allegation in which Representative 2 wrote:

*"I'm wondering if you have heard anything about [named competitor product] possibly being discontinued in the UK? We have been informed by a Trust in [named area] that they have indeed discontinued it, however, I am reluctant to believe this until more Trusts can either confirm or deny the rumour.*

*As [named hospital] is a large user of [named competitor product] I thought if they are discontinuing it they would most definitely have informed you. Have you heard anything? If*

*you haven't I will put this down to a mis communication from the Trust in question in [named area]."*

In its response to the PMCPA, B Braun provided a pharmacy memorandum medication notification, in which the discontinuation of the competitor product was announced.

B Braun submitted that Representative 2 sent their email to a Consultant Anaesthetist who was known to them and who had not been involved in any decision-making regarding IV ibuprofen. They further submitted that the intention of the email was to establish if B Braun needed to put a plan in place to make additional stock available in order to avoid a shortfall in the market.

The Panel considered the tone, purpose and intention behind the email. The Panel also noted that the enquiry about the competitor product appeared to be based on a genuine communication from another trust about the discontinuation. The Panel concluded, therefore, that there had been no failure to maintain high standards and ruled **no breach of Clause 5.1**.

**Complaint received      25 October 2024**

**Case completed        12 May 2025**