NFTHD #63: Do we report payments made to HCP's who don't prescribe?

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In this Note from the Help Desk, we discuss a scenario where a healthcare professional (HCP) sought formal dispensation from Medicines Australia to not disclose the payments they were receiving from a Medicines Australia member company.

On face value this is a straightforward situation; if we were in 2014, there was no reporting, so the question would not have been asked. If it was 2015, then the HCP could opt in or out. Since 2016, the Code evolved to make reporting of payments to healthcare professionals compulsory for member companies after establishing the 'reasonable expectation'. From 2019, this information has been presented in a consolidated and searchable database – Disclosure Australia. Disclosure Australia was developed in response to the ACCC requesting that information accessible and searchable.

What happens if the HCP doesn't prescribe? In this situation, the person had a consulting business, and their services did not include prescribing, dispensing, recommending, supplying or administering prescription medicines.

What are our responsibilities in reporting payments and transfers of value to registered HCPs when the nature of their engagement is separate from their capacity as a prescriber? The way to navigate this is not to think about prescribing, but to think about whether they are practicing. The principle underpinning transparency is to provide transparency for Australian patients about how the HCPs who care for them interact with pharmaceutical companies. By doing so, we maintain trust and confidence in the industry. It is one of a few mechanisms that we have adopted to demonstrate our interactions with healthcare professionals remain appropriate, ethical and do not inappropriately influence. They can be justified and are not covert in nature.

The baseline take-away is that any remuneration or sponsorship of a HCP needs to be reported. This includes consultancy fees paid to healthcare professionals because they represent fee-for-service based on expert knowledge derived from their clinical and management experience (noting there are some exceptions as identified in the Code, such as consultants in relation to research and development work such as clinical trials). The issue in this case was not so much the nature of their service, rather it was that the HCP was non-practising for a long period of time.

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Examples of non-practising HCPs are medical practitioners, pharmacists or nurses who are journalists or media identities who do not care for patients as a health professional. The same could be said about this Consultant. They chose to maintain their registration in their medical field in case of an urgent public health emergency or return to a charity basis in retirement, such as through international aid or remote communities. Because of this, their AHPRA number remains current, and was flagged by the company's procedures and systems, and thus was set to be included in the transparency reporting... which was not the wish of the Consultant.

It's worth remembering that Medicines Australia don't grant exceptions or allowances – we simply don't have, nor want, that discretionary power. The decision remains yours to make, and our role is to support you in making ethical decisions that align with the Code's principles. Ultimately our advice to the Consultant was to talk it through with the company, and our advice to the company was that if they were assured of the long-term non-practicing nature of the HCP/Consultant, and this matched up with the kind of service they were providing, then it was reasonable to refrain from reporting the consultancy fee in this case. Like always, good documentation of the decisions and reasons will bid you well and helps to create consistency across your decisions.

Conversely, another point of view though is – why not report it? There are more risks to the company in non-reporting than reporting, and these risks are held by the company and not shared by the HCP.

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