

EX-EMPLOYEE v NOVARTIS

Medical Representatives Examination

An ex-employee of Novartis complained about a field-based manager not having completed the medical representatives' examination. The complainant alleged that the field-based manager stated that he/she had managed to avoid having to complete the ABPI examination for medical representatives for a given number of years and was still required to complete it.

The detailed response from Novartis is given below.

The Panel noted Novartis' submission that the employee in question had passed the medical representatives' examination prior to starting to work for Novartis. The Panel thus ruled no breaches of the Code in relation to the individual's employment at Novartis and because there was no evidence to show that the Novartis employee had made the statement in question.

An ex-employee of Novartis complained about a field-based manager not having completed the medical representatives' examination.

COMPLAINT

The complainant explained that in 2017 whilst working at Novartis he/she was made aware by a field-based manager at Novartis that he/she had managed to avoid having to complete the ABPI examination for medical representatives for a given number of years and was still required to complete it. The complainant alleged that it might be a breach of Clauses 2 and/or 15 and 16.

RESPONSE

Novartis confirmed that the named individual was an associate (the term Novartis used for an employee of the company) who had passed the ABPI examination for medical representatives prior to commencement of employment with Novartis. The associate categorically denied ever stating that he/she 'avoided the ABPI examination'.

Novartis submitted that whilst the complainant was quite broad in the clauses that he/she quoted (Clauses 2, 15 and 16), it was mindful of the very narrow nature of the complaint and the Authority's specific reference to Clause 16.3. Novartis submitted that it therefore focused on the pertinent aspects of those clauses and referred to the applicability of Clause 1.7. Novartis stated that Clause 16.3 was clear on the requirement for a representative to take an appropriate examination within the first year of employment and to have passed it within 2 years. Novartis submitted that the associate passed the ABPI examination for medical representatives whilst employed in another pharmaceutical company.

Regardless of the nature of the associate's role now or at any time during his/her employment at Novartis, the fact remained that he/she held the stated qualification for the entire length of his/her employment with Novartis and so there could have been no breach of Clause 16.3 during that time.

Novartis noted that Clause 15 was a broad clause that covered a number of different aspects relevant to the role of a representative. When considering this clause Novartis focused on the narrow nature of the complaint. Novartis submitted that Clause 15.2 was the only relevant clause in this case which stated that representatives must at all times maintain a high standard of ethical conduct in the discharge of their duties and must comply with all relevant requirements of the Code. Novartis stated that it had demonstrated that the named associate had passed the medical representatives' examination and on questioning, denied ever stating that he/she avoided taking the examination. Novartis therefore denied a breach of Clause 15.

Novartis noted that Clause 1.7 provided a definition of the term 'representative'. Novartis noted that regardless of whether the associate's current or prior roles fell within the scope of the definition in Clause 1.7, he/she held the qualification at issue in this complaint.

Novartis denied a breach of Clauses 15 and 16, and therefore considered that there could have been no breach of Clause 2. Novartis trusted that in confirming that the associate passed the ABPI medical representative examination prior to employment at Novartis and denied ever stating that he/she had avoided taking it, demonstrated that there had been no breach of the Code.

PANEL RULING

The Panel noted that Clause 16.3 required representatives to pass the relevant examination. It required that the medical representatives' examination be taken by representatives whose duties comprised or included one or both of 'calling upon doctors and/or dentists and/or other prescribers' and 'the promotion of medicines on the basis, *inter alia*, of their particular therapeutic properties'. The Panel noted that the named Novartis employee had passed the medical representatives' examination prior to starting to work for Novartis. The Panel noted Novartis' submission about the employee's current field-based role and regardless of the nature of the role now or at any time during his/her employment at Novartis, the fact remained that he/she held the stated qualification for the entire length of his/her employment with Novartis. The Panel had no information about the individual's

employment history prior to Novartis. The Panel thus ruled no breach of Clause 16.3 in relation to the individual's employment at Novartis.

The Panel noted that the parties' accounts differed with regard to what the Novartis employee stated about the examination. The complainant alleged that the Novartis employee had stated that he/she had managed to avoid taking the medical representatives' examination for a given number of years and was still yet to take it. The Novartis employee denied having said this. The Panel noted that the Novartis employee had completed the medical representative examination at the time he/

she was alleged to have made the comment. The Panel considered that there was no evidence to show that the Novartis employee had made the statement in question. The Panel ruled no breach of Clause 15.2.

The Panel noted its comments and rulings above and consequently ruled no breach of Clause 2.

Complaint received **6 November 2018**

Case completed **14 December 2018**
