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GPC

General Practitioners
Committee

Hepatitis B immunisation for employees at risk

Guidance for GPs

BMA 

Hepatitis B immunisation for employees at risk

The GPC receives many enquiries about administering the Hepatitis B vaccination, particularly for occupational health purposes. We recognise that requests for immunisation against Hepatitis B do present considerable difficulties for practices. This guidance summarises our legal advice on the interpretation of the GMS¹, PMS² and APMS Regulations and directions³.

1. Is there a requirement under regulations to prescribe and administer the Hepatitis B vaccination for occupational health purposes?

It could be argued that there may be an obligation under paragraph 15 of the new GMS Regulations to provide the Hepatitis B vaccination to patients. Paragraph 15(3) of the GMS regulations requires GPs to manage their patients and paragraph 15(4) defines management as:

- (a) Offering consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or for further investigation; and
- (b) The making of such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under the Act and liaison with other health care professionals involved in the patient's treatment and care.

This definition also applies to PMS and APMS. Firstly it is the employer's duty under Health and Safety Legislation to assess whether the provision of the Hepatitis B vaccination is necessary, therefore a doctor does not have a duty under paragraph 15 4(a) to conduct an examination to determine whether the vaccination is required.

Secondly, in practise, it would be very difficult for a GP to know whether provision of the vaccination is necessary and appropriate, in the absence of guidance from an appropriate specialist. In the absence of such guidance, it would not be appropriate for the GP to provide the vaccination and therefore paragraph 15(b) would not apply.

Accordingly, the GPC's view is that there is not an obligation under the regulations governing GP contracts to administer such vaccinations for occupational reasons. Patients should be referred to the Employer's Occupational Health Department.

The same applies for healthcare students who often request a Hepatitis B immunisation prior to, or on entering, a course. Medical Schools are legally responsible for providing a full occupational health service to their students. This should include appropriate training for example in risk reduction and coping with needle stick injuries. By providing a Hepatitis B immunisation, a GP could place inexperienced healthcare students at risk by providing a false sense of security and potentially exposing

¹ The National Health Service (General Medical Services Contracts) Regulations 2004 – <http://www.opsi.gov.uk/si/si2004/20040291.htm>

² The National Health Service (Personal Medical Services Agreements) Regulations 2004 – <http://www.opsi.gov.uk/si/si2004/20040627.htm>

³ The National Health Service Act 1977 Alternative Provider Medical Services Directions 2005 - <http://www.dh.gov.uk/assetRoot/04/10/85/94/04108594.pdf>

them to clinical risk of other blood borne infections including HIV and Hepatitis C before they have received appropriate training.

A doctor does have a duty to provide the Hepatitis B vaccination under essential services when treatment is necessary for example for in the case of bites or post exposure.

2. Does a doctor have a professional duty to administer the Hepatitis B vaccination for occupational health purposes if the patient is clearly at risk?

Under Health and Safety Legislation, it is the **employer** who has responsibility for undertaking an Occupational Health assessment and taking action as appropriate. It is therefore the employer's duty, rather than the GP's responsibility to ensure that an 'at risk' employee does not work unless they have been appropriately vaccinated. The GPC view is that it would be very rare for a patient to be at imminent risk as this could be avoided by not working.

Example:

A registered patient arrives at your practice and asks for the Hepatitis B vaccination. He/she is due to start work in the sewers the next morning and is therefore at risk of Hepatitis B. Do you have a duty to give him/her the vaccination?

GPC view:

The Employer has a duty to ensure that the patient is vaccinated, not the GP. The GP can refuse to provide the vaccination for occupational health reasons and the employer would be legally responsible for allowing the patient to work if he/she had not been vaccinated. The GP would have a responsibility to advise the patient that he/she should not work and should consult his/her union. If the employer failed to take action it could be referred to Health Service Executive.

Attached at Appendix 1 is a model letter, which can be provided to patients who request a Hepatitis B vaccination for occupational health purposes. Appendix 2 contains a model letter to the employer.

3. Can the patient be charged a fee by the general practitioner for giving the Hepatitis B vaccination?

Paragraph 24 of the GMS Regulations⁴ forbids a practice from demanding or accepting a fee from any of its registered patients, including accepted temporary residents, for the provision of any treatment save in certain specific exceptions. Schedule 5 of the GMS Regulations⁵ lists the circumstances in which a fee can be charged. The only circumstance as far as immunisation is concerned is under paragraph (h), which refers to an immunisation which is requested in connection with travel abroad. Workers at risk will be unlikely to request hepatitis B vaccination solely in connection with travel abroad.

Paragraph 24 of the GMS Regulations only applies to registered patients. Therefore a practice could charge a fee to patients who are not registered at the practice whilst considering that this should not replace a full occupational health check as outlined in question 1.

⁴ This also applies to PMS (paragraph 15 of the PMS regulations) and APMS (paragraph 8 of the APMS Directions).

⁵ For PMS and APMS, Schedule 3 of the PMS Regulations applies.

4. Can the GP charge the employer for providing Hepatitis B vaccination as a private service?

The GPC view is that a practice can choose to enter into a private contract with an employer to provide this service either to a group of employees or for a single employee. The practice would need to carefully consider the nature of the service required for the employees e.g. whether a full occupational health assessment would be necessary. This will include necessary blood tests (see question 5).

There are likely to be circumstances where this contract would involve treating patients, which are registered with the practice as described in question 3. Paragraph 24 of the GMS regulations prevents a practice accepting a payment from **its patients**:

‘The contractor shall not, either itself or through any other person, demand or accept from any patient of it’s a fee or other remuneration for its own or another’s benefit, for –

- (a) the provision of any treatment under the contract or otherwise; or
- (b) any prescription or repeatable prescription for any drug, medicine or appliance, except in circumstances set out in Schedule 5.

However, if a practice enters into a contract with an employer, it will **not** be accepting a fee from the registered patients, but the employer. In addition Schedule 5 of the GMS regulations allows a practice to accept a fee:

‘from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take.’

Based on this legislation, it is the GPC view that a practice could enter into a contract with an employer for the provision of the Hepatitis B vaccination, even if it resulted in treating patients registered with the practice.

5. Who should be charged for blood tests that are necessary to assess immunity status?

The laboratory is likely to charge the practice for any blood tests that are required to assess immunity status. Practices cannot charge a registered patient for phlebotomy or laboratory fees however it is the GPC view that if the practice has entered into a contract with the employer to provide this service, any costs for such tests should be charged to the employer. The employer should be forewarned of, and agree to pay, these costs.

6. Can the GP issue a certificate to the patient for which they, or their employer, can be charged a reasonable fee?

The certificate would indicate that the patient

- (a) has been vaccinated against hepatitis B
- (b) has/has not sero converted.

Our legal advice is that this is permissible as far as the regulations are concerned, but the purchaser would obviously have to agree to pay for the certificate. There will be no obligation to pay a fee for such a certificate unless the recipient has implicitly agreed to pay by requesting that it be produced.

Further general information on Vaccinations and Immunisations can be found at:
<http://www.bma.org.uk/ap.nsf/Content/focusvacc%26imms0404>

Appendix 1

MODEL LETTER TO PRESENT TO PATIENTS WHO REQUEST A HEPATITIS B VACCINATION FOR OCCUPATIONAL HEALTH REASONS

Dear Patient

You have requested Hepatitis B immunisation for occupation purposes to be provided by your GP.

GPs do not provide an occupational health service as part of their NHS responsibility nor can they provide this service to you even if it is funded by you.

Under Health and Safety Regulations, your employer has a duty to provide a safe working environment and, therefore, appropriate health advice for those at risk of infection with Hepatitis B. We advise you to contact your employer who will be able to make arrangements with an occupational health provider for the provision of any immunisation which you may require following an appropriate assessment of the risk to which you are exposed.

Yours faithfully

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MODEL LETTER TO EMPLOYERS WHOSE EMPLOYEES REQUEST A HEPATITIS B VACCINATION FOR OCCUPATIONAL HEALTH REASONS

Dear Employer

Your employee – [name] – Hepatitis B risk assessment

This person presented at my surgery and informed me that they have been advised by you to seek protection against Hepatitis B because of the nature of his/her employment.

Under Health and Safety legislation employers have a duty to provide a safe working environment. Employers should undertake a risk assessment and arrange protection for employees, including, where necessary, immunisation against Hepatitis B. If an assessment reveals a risk the employer has a duty to act and should make arrangements with a suitably qualified medical service to meet the relevant obligations.

This practice is not aware of the situation and hazards in your employee's workplace and does not have occupational expertise to advise on the risks involved.

It is therefore inappropriate for us to proceed with vaccination and I have asked your employee to return to you so that you can deal with this appropriately. I should add that the NHS does not fund Hepatitis immunisation for employment purposes.

We would be happy to discuss with you the provision of a non-NHS vaccination service once you have arranged the appropriate risk assessment.

Please do not hesitate to contact us if you have any questions about this letter.

Yours faithfully,

Dr X