

## ICB Briefing

### **Removal of Congleton Pharmacy from the Pharmaceutical list for the area of Cheshire East Health & Wellbeing Board**

At a meeting of the Cheshire & Merseyside Pharmaceutical Services Regulations Committee on 20 September 2023 a decision was made to notify of Khalidoscope Services Ltd (KSL) the proposed removal of Khalidoscope Services Ltd (KSL) in the pharmaceutical list for the area of Cheshire East Health and Wellbeing Board in respect of, 62B Havannah Street, Buglawton, Congleton, Cheshire CW12 2AT. Appropriate legal advice was sought in relation to this process prior to this determination.

Under Regulation 74(1) of The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 the ICB must remove a pharmacy from the relevant pharmaceutical list if they cease to carry on a retail pharmacy business. The ICB must first give the pharmacy notice of the proposal and the opportunity to make representations, before reaching a final decision.

As background:

- NHS England is responsible for commissioning NHS pharmaceutical services and for preparing, maintaining and publishing lists of pharmacies authorised to provide NHS pharmaceutical services (pharmaceutical lists). A person wishing to provide NHS pharmaceutical services must be included in the relevant pharmaceutical list, provide an undertaking to provide such services, and is bound by terms of service.
- Congleton Pharmacy is in the area of Cheshire East Health and Wellbeing Board. Since 1 April 2023, NHS England has arranged for its above functions to be exercised by NHS Cheshire and Merseyside Integrated Care Board (ICB) in respect of this area.

- On 1 October 2021 KSL, intending to operate from 62B Havannah St, CW12 2AT, as Congleton Pharmacy, submitted a change of ownership application to NHS England.
- On 25 November 2021 KSL submitted fitness to practice information in support of its application.
- On 26 May 2022, F2F Health Care Limited (F2F) was incorporated. Dr. Shahid Nazir Ahmed is listed as the sole director whilst Mr Khalid Ahmed is registered with the General Pharmaceutical Council (GPhC) as F2F's superintendent pharmacist. **It is important to note that Khalid Ahmed is also the owner and director of KSL.**
- On 8<sup>h</sup> September 2022, the fitness to practice for KSL was approved. This had been considerably delayed due to issues with getting hold of the appropriate information from Mr Khalid Ahmed.
- On 6 October 2022 NHS England granted the change of ownership application to KSL.
- On 9 December 2022 NHS England received a notice of commencement from KSL. This signed document confirms KSL's understanding that from the date of commencement they hold the pharmacy contract for that address and are required to deliver the contractual services and are bound by those contract terms. The pharmacy has up to 12 months to submit the notice from the date the change of ownership is granted. The notice of commencement stated that the pharmacy would take over the services at the site on 19 January 2023.
- On 16 January 2023 F2F submitted a change of ownership application for Congleton Pharmacy (owned by KSL) to NHS England.
- On 19 January 2023, KSL started trading and NHS England subsequently included KSL in the relevant pharmaceutical list in respect of Congleton Pharmacy. At that point KSL became liable for provision of NHS pharmaceutical services from Congleton Pharmacy and entitled to claim

payment from the NHS for such. Mr Khalid Ahmed was, and remains, registered with the GPhC as KSL's superintendent pharmacist.

- As part of the fitness checks for F2Fs change of ownership and in response to number of complaints received from patients it came to light that KSL was subject to a compulsory liquidation. A petition to wind up KSL had been presented to the court on 21 December 2022 by a company claiming to be a Creditor of KSL. At this point the liquidators took control of the company.
- The Regulations **do not** require the contract holder to inform the NHS of liquidation proceedings.
- The winding up order was made by the court on 14 March 2023.
- As of 20 September 2023, F2F's change of ownership application has not yet been determined. This is due to missing information within the fitness to practice application. KSL therefore remains included in the relevant pharmaceutical list in respect of Congleton Pharmacy, liable for the provision of NHS pharmaceutical services at the pharmacy premises and entitled to payment from the NHS for the provision of such services. It should be noted that, the Regulations do not allow for automatic removal of the contract due to liquidation proceedings.
- The premises at 62B Havannah Street, Buglawton, Cheshire CW12 2AT is owned by F2F and is registered with the GPhC, but F2F does **NOT** have an NHS contract. This means that they are legally entitled to carry on a retail pharmacy business, but they are not allowed to conduct any NHS business, so they cannot claim payment for any medication given out on an NHS prescription or deliver any other additional NHS services. They should not be accessing digital information from the NHS spine and should not be using the NHS logo.
- KSL is not listed with the GPhC and does not have a registered premises. Therefore, in law, KSL is unable to carry on a retail pharmacy business. However, as of 20<sup>th</sup> September 2023, their contract remains in place and their Contractor code is still live on the NHS Spine.

- There has been no NHS prescription claims submitted to NHSBSA for payment by KSL since February 2023.
- Legal advice has been sought from Hill Dickinson LLP. They have advised that under the Regulations KSL must be removed from the list on the grounds that they have ceased to carry on a retail pharmacy business, however we must give KSL 30 days' notice of the proposal to remove KSL, and 30 days' notice of the final decision, even though they are not currently operational. This is part of the procedure under the Regulations and allows for KSL to make any representations and for the close down and appeals procedure, as detailed within the Regulations and pharmacy manual, to be followed.
- It is also advised that we write to F2F to remind them that they should not be providing NHS services or holding themselves out as authorised to do so and, should they be doing so, they must cease to do so immediately.

KSL were served 30 days notice on **25<sup>th</sup> September 2023** of our proposal to remove them from the pharmaceutical list. KSL have a right to appeal within these 30 days. If they do not appeal they will be served 30 days notice to close.