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STATUTORY INSTRUMENTS

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**2015 No. 196**

**The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2015**

**PART 3**

**Amendment of the PMS Agreements Regulations**

**Amendment of regulation 2 of the PMS Agreements Regulations**

- 17.** In regulation 2 of the PMS Agreements Regulations<sup>(1)</sup> (interpretation)—
- (a) in the definition of “armed forces GP”, for the words “United Kingdom Armed Forces of Her Majesty” substitute “armed forces of the Crown”; and
  - (b) after the definition of “armed forces GP” insert—
    - ““armed forces of the Crown” means the forces that are “regular forces” or “reserve forces” within the meaning given in section 374 of the Armed Forces Act 2006<sup>(2)</sup> (definitions applying for the purposes of the whole Act);”.

**Amendment of regulation 9 of the PMS Agreements Regulations**

- 18.** In regulation 9 of the PMS Agreements Regulations<sup>(3)</sup> (health service body status)—
- (a) in paragraph (8), for sub-paragraph (b) substitute—
    - “(b) paragraph (5), where it or the Board—
      - (i) has referred any matter to the NHS dispute resolution procedure before it ceases to be a health service body, or
      - (ii) refers any matter to the NHS dispute resolution procedure, in accordance with paragraph 94(1)(a) of Schedule 5, after it ceases to be a health service body,
- the contractor is to continue to be regarded as a health service body (and accordingly the agreement is to continue to be regarded as an NHS contract) for the purposes of the consideration and determination of the dispute;”.

**Insertion of new regulation 15A into the PMS Agreements Regulations**

- 19.** After regulation 15 of the PMS Agreements Regulations<sup>(4)</sup> (fees and charges) insert—

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(1) There are no relevant amendments to regulation 2.  
(2) 2006 c.52; a relevant amendment to section 374 was made by section 44(3) and (4) of the Defence Reform Act 2014 (c.20).  
(3) Regulation 9 was amended by S.I. 2004/2694 and 2013/363.  
(4) Regulation 15 was amended by S.I. 2004/2694 and S.I. 2013/363.

### **“Patient participation**

**15A.**—(1) A contractor which provides essential services must establish and maintain a group known as a “Patient Participation Group” comprising of some of its registered patients for the purposes of—

- (a) obtaining the views of patients who have attended the contractor’s practice about the services delivered by the contractor; and
- (b) enabling the contractor to obtain feedback from its registered patients about those services.

(2) The contractor is not required to establish a Patient Participation Group if such a group has already been established by the contractor pursuant to the provisions of any directions about enhanced services which were given by the Secretary of State under section 98A of the 2006 Act<sup>(5)</sup> before 1st April 2015.

(3) The contractor must make reasonable efforts during each financial year to review the membership of its Patient Participation Group in order to ensure that the Group is representative of its registered patients.

(4) The contractor must—

- (a) engage with its Patient Participation Group, at such frequent intervals throughout each financial year as the contractor must agree with that Group, with a view to obtaining feedback from the contractor’s registered patients, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the contractor; and
- (b) review any feedback received about the services delivered by the contractor, whether pursuant to sub-paragraph (a) or otherwise, with its Patient Participation Group with a view to agreeing with that Group the improvements (if any) which are to be made to those services.

(5) The contractor must make reasonable efforts to implement such improvements to the services delivered by the contractor as are agreed between the contractor and its Patient Participation Group.

(6) In this regulation “financial year” means the 12 month period beginning on 1st April each year and ending on 31st March the following year.”.

### **Amendment of regulation 18B of the PMS Agreements Regulations**

**20.** In regulation 18B of the PMS Agreements Regulations<sup>(6)</sup> (registered patients from outside practice area: variation of contractual terms), after paragraph (3) insert—

“(3A) Where, under paragraph (1), a contractor accepts onto its list of patients a person who resides outside of the contractor’s practice area and the contractor subsequently considers that it is not clinically appropriate or practical to continue to provide that patient with services in accordance with the terms specified in paragraph (3), or to comply with those terms, the agreement must be varied so as to include a term which has the effect of modifying the application of paragraph 19 of Schedule 5 (which relates to the removal of a patient from the list at the contractor’s request) in relation to that patient so that—

- (a) in sub-paragraph (1), the reference to the patient’s disability or medical condition is removed; and
- (b) sub-paragraph (4) applies as if, after paragraph (a), there were inserted the following paragraph—

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<sup>(5)</sup> Section 98A of the Act was inserted by section 49(1) of the Health and Social Care Act 2012 (c.7).

<sup>(6)</sup> Regulation 18B was inserted by S.I. 2013/363 and was substituted by S.I. 2014/465.

“(aa) the reason for the removal is that the contractor considers that it is not clinically appropriate or practical to continue to provide services under the agreement to the patient which do not include the provision of such services at the patient’s home address;”.

### **Amendment of paragraph 9 of Schedule 5 to the PMS Agreements Regulations**

**21.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), in paragraph 9(7) (out of hours services: quality standards and monitoring), for sub-paragraph (2) substitute—

- “(2) The contractor must, in the provision of those services—
- (a) meet the quality requirements set out in the document entitled “National Quality Standards in the Delivery of Out of Hours Services” published on 20th July 2006(8); and
  - (b) comply with any requests for information which it receives from or on behalf of the Board about the provision by the contractor of out of hours services to its registered patients in such manner, and before the end of such period, as is specified in the request.”.

### **Insertion of new paragraph 13ZA into Schedule 5 to the PMS Agreements Regulations**

**22.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), after paragraph 13 (list of patients) insert—

#### **“Newly registered patients – alcohol dependency screening**

**13ZA.**—(1) Where under paragraph 13 a patient has been—

- (a) accepted onto the contractor’s list of patients; or
- (b) assigned to that list by the Board,

the contractor must take action to identify any such patient over the age of 16 who is drinking alcohol at increasing or higher risk levels with a view to seeking to reduce the alcohol related health risks to that patient.

(2) The contractor must comply with the requirement in sub-paragraph (1) by screening the patient using either one of the two shortened versions of the World Health Organisation Alcohol Use Disorders Identification (“AUDIT”) questionnaire(9) which are known as—

- (a) FAST (which has four questions); or
- (b) AUDIT-C (which has three questions).

(3) Where, under sub-paragraph (2), the contractor identifies a patient as positive using either of the shortened versions of the AUDIT questionnaire specified in sub-paragraph (2), the remaining questions of the full ten question AUDIT questionnaire are to be used by the contractor to determine increasing risk, higher risk or likely dependent drinking.

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(7) Paragraph 9 was substituted by [S.I. 2014/465](#).

(8) The document entitled “National Quality Standards in the Delivery of Out of Hours Services” published on 20th July 2006 is available at: [http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4137271](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4137271). Hard copies may be obtained from the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS.

(9) The World Health Organisation Alcohol Use Disorders Identification Test (AUDIT) questionnaire can be accessed at [http://www.who.int/substance\\_abuse/activities/sbi/en/](http://www.who.int/substance_abuse/activities/sbi/en/). Further information about the test, and the questionnaires themselves, are available in hard copy from NHS England, PO Box 16738, Redditch, B97 7PT.

- (4) Where a patient is identified as drinking at increasing or higher risk levels, the contractor must—
- (a) offer the patient appropriate advice and lifestyle counselling;
  - (b) respond to any other need identified in the patient which relates to the patient's levels of drinking, including by providing any additional support or treatment required for people with mental health issues; and
  - (c) in any case where the patient is identified as a dependent drinker, offer the patient a referral to such specialist services as are considered clinically appropriate to meet the needs of the patient.
- (5) Where a patient is identified as drinking at increasing or higher risk levels or as a dependent drinker, the contractor must ensure that the patient is—
- (a) assessed for anxiety and depression;
  - (b) offered screening for anxiety or depression; and
  - (c) where anxiety or depression is diagnosed, provided with any treatment and support which may be required under the agreement, including referral for specialist mental health treatment.
- (6) The contractor must make relevant entries, including the results of the completed questionnaire referred to in sub-paragraph (2), in the patient's record that the contractor is required to keep under paragraph 70.”.

### **Insertion of new paragraph 13ZB into Schedule 5 the PMS Agreements Regulations**

**23.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), immediately after new paragraph 13ZA (newly registered patients – alcohol dependency screening) as inserted by regulation 18, insert—

#### **“Accountable GP**

**13ZB.—**(1) A contractor must ensure that for each of its registered patients (including patients under the age of 16) there is assigned an accountable general medical practitioner (“accountable GP”).

(2) The accountable GP must take lead responsibility for ensuring that any services which the contractor is required to provide under the agreement are, to the extent that their provision is considered necessary to meet the needs of the patient, coordinated and delivered to the patient.

(3) The contractor must—

- (a) inform the patient, as soon as is reasonably practicable and in such manner as is considered appropriate by the practice, of the assignment to the patient of an accountable GP and must state the name and contact details of the accountable GP and the role and responsibilities of the accountable GP in respect of the patient;
- (b) inform the patient as soon as any circumstances arise in which the accountable GP is not able, for any significant period, to carry out the duties of an accountable GP in respect of the patient; and
- (c) where the practice considers it to be necessary, assign a replacement accountable GP to the patient and give notice to the patient accordingly.

(4) The contractor must comply with the requirement in sub-paragraph (3)(a)—

- (a) by 30th June 2015, in the case of any person who is included in the contractor's list of patients immediately before 1st April 2015; or

- (b) in the case of any person who is accepted by the contractor as a registered patient on or after 1st April 2015, within 21 days from the date on which that patient is so accepted.
- (5) The requirement in sub-paragraph (1) does not apply to—
  - (a) any patient of the contractor who is aged 75 or over, or who attains the age of 75, on or after 1st April 2015; or
  - (b) any other patient of the contractor if the contractor has been informed that the patient does not wish to have an accountable GP.
- (6) Where, under sub-paragraph (3)(a), the contractor informs a patient of the assignment to them of an accountable GP, the patient may express a preference as to which general medical practitioner within the contractor’s practice the patient would like to have as the patient’s accountable GP and, where such a preference has been expressed, the contractor must make reasonable efforts to accommodate the request.
- (7) Where, under sub-paragraph (5)(b), the contractor has been informed by or in relation to a patient that the patient does not wish to have an accountable GP, the contractor must record that fact in the patient’s record that the contractor is required to keep under paragraph 70.
- (8) The contractor must, by no later than 31st March 2016, include information about the requirement to assign an accountable GP to each of its new and existing registered patients—
  - (a) on the contractor’s practice website (if it has one); and
  - (b) in the contractor’s practice leaflet.
- (9) Where the contractor does not have a practice website, the contractor must include the information referred to in sub-paragraph (8) on its profile page on NHS Choices(10).”.

### **Insertion of new paragraph 14A into Schedule 5 to the PMS Agreements Regulations**

**24.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), after paragraph 14(11) (application for inclusion in a list of patients), insert—

#### **“Inclusion in list of patients: armed forces personnel**

**14A.**—(1) The contractor may, if its list of patients is open, include a person to whom sub-paragraph (2) applies in its list of patients for a period of up to two years and paragraph 24(1)(b) does not apply in respect of any person included in the contractor’s list of patients by virtue of this paragraph.

- (2) This sub-paragraph applies to a person who is—
  - (a) a serving member of the armed forces of the Crown who has received written authorisation from Defence Medical Services(12) to receive primary medical services from the contractor’s practice; and
  - (b) living or working within the contractor’s practice area during the period in respect of which that written authorisation is given.
- (3) Where the contractor has accepted a person to whom sub-paragraph (2) applies onto its list of patients, the contractor must—

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(10) NHS Choices is the website available at <http://www.nhs.uk> which provides information from the National Health Service on conditions, treatments and local services including GP services.

(11) Paragraph 14 was amended by [S.I. 2013/363](#).

(12) Defence Medical Services is an umbrella organisation within the Ministry of Defence which is responsible for the provision of medical, dental and nursing services in the United Kingdom to members of the armed forces of the Crown.

- (a) obtain a copy of the patient’s medical record or a summary of that record from Defence Medical Services; and
  - (b) provide regular updates to Defence Medical Services at such intervals as are agreed with Defence Medical Services about any care and treatment which the contractor has provided to the patient.
- (4) At the end of the period of two years, or on such earlier date as the contractor’s responsibility for the patient has come to an end, the contractor must—
- (a) notify Defence Medical Services in writing that its responsibility for that person has come to an end; and
  - (b) update the patient’s medical record, or summary of that record, and return it to Defence Medical Services.
- (5) In this paragraph, “primary medical services” are the medical services which are provided by the contractor’s practice under the contract to which Part 4 of the 2006 Act applies.”.

#### **Amendment of paragraph 24 of Schedule 5 to the PMS Agreements Regulations**

**25.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), in paragraph 24(13) (removals from the list of patients absent from the United Kingdom etc), for sub-paragraph (1) (b) substitute—

- “(b) is in the armed forces of the Crown (except in the case of a patient to whom regulation 14A applies);”.

#### **Amendment of paragraph 70D of Schedule 5 to the PMS Agreements Regulations**

**26.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), in paragraph 70D(14) (patient online services)—

- (a) after sub-paragraph (1) insert—

“(1A) A contractor must, when complying with the requirement in sub-paragraph (1) (a), consider whether it is necessary, in order to meet the reasonable needs of its registered patients, to take action to comply with the requirement in sub-paragraph (1)(a) so as to increase the proportion of appointments which are available for its registered patients to book online and, if so, take such action.”;

- (b) after sub-paragraph (2) insert—

“(2A) A contractor must promote and offer to its registered patients, in circumstances where the medical records of its registered patients are held on the contractor’s computerised clinical systems, the facility for any such patient to access online all information from the patient’s medical record which is held in coded form unless—

- (a) in the reasonable opinion of the contractor, access to such information would not be in the patient’s best interests because it is likely to cause serious harm—
  - (i) to the patient’s physical or mental health, or
  - (ii) to the physical or mental health of any other person;
- (b) the information includes a reference to any third party who has not consented to its disclosure; or

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(13) Paragraph 24 was amended by [S.I. 2013/363](#).

(14) Paragraph 70D was inserted by [S.I. 2014/465](#).

- (c) the information in the patient’s medical record contains a free text entry and it is not possible under the contractor’s computerised clinical systems to separate that free text entry from other information in that medical record which is held in coded form.”; and
- (c) for sub-paragraph (5) insert—
  - “(5) The requirements in sub-paragraph (2)—
    - (a) do not apply where the contractor does not have access to computer systems and software which would enable it to offer the online services described in that sub-paragraph; and
    - (b) only apply until such time as the contractor is able to fully comply with the requirements in sub-paragraph (2A).
  - (5A) The requirements in sub-paragraph (2A) do not apply where—
    - (a) the contractor does not have access to GPSOC accredited computer systems and software which would enable it to offer the online services described in that sub-paragraph to its registered patients; and
    - (b) the contractor has, by 30th September 2015, publicised its plans to enable it to achieve those requirements by 31st March 2016 by displaying a statement of intent on the practice premises and, where the practice has a website, on the practice website.”; and
- (d) for sub-paragraph (6) substitute—
  - “(6) In this paragraph—
    - (a) “GPSOC accredited computer systems and software” means computer systems and software which have been accredited by the Secretary of State or another person in accordance with “General Practice Systems of Choice Level 2(15)”; and
    - (b) “summary information” has the meaning given in paragraph 70A(3).”.

### **Substitution of paragraph 72ZA of Schedule 5 to the PMS Agreements Regulations**

**27.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), for paragraph 72ZA(16) (Friends and Family Test(17)), substitute—

- “**72ZA.**—(1) A contractor which provides essential services must give all patients who use the contractor’s practice the opportunity to provide feedback about the service received from the practice through the Friends and Family Test.
- (2) The contractor must—
  - (a) report the results of completed Friends and Family Tests to the Board; and
  - (b) publish the results of such completed Tests(18),

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(15) GP Systems of Choice is a scheme by which the National Health Service funds the cost of GP clinical IT systems in England. Guidance about this scheme is available from the Health and Social Care Information Centre, 1 Trevelyan Square, Boar Lane, Leeds, LS1 6AE.

(16) Paragraph 72ZA was inserted by [S.I. 2014/2721](#).

(17) See the guidance for GP Practices on the Friends and Family Test, published in July 2014, which is available in full and summary form at: <http://www.england.nhs.uk/ourwork/pe/fft/fft-guidance/>. Hard copies of this guidance are available from Primary Care Contracting, NHS Employers, 50 Broadway, London SW1H 0DB.

(18) See pages 7 and 8 of the full Guidance for GP Practices on the Friends and Family Test in respect of the requirement on GP practices to submit monthly reports to the Board and to publish the results of completed tests. This guidance is available at <http://www.england.nhs.uk/ourwork/pe/fft/fft-guidance/>. Hard copies of this guidance are available from Primary Care Contracting, NHS Employers, 50 Broadway, London SW1H 0DB.

in the manner approved by the Board.

(3) In this paragraph, “Friends and Family Test” means the arrangements that a contractor is required by the Board to implement to enable its patients to provide anonymous feedback about the patient experience at the contractor’s practice.”.

### **Insertion of new paragraph 73A into Schedule 5 to the PMS Agreements Regulations**

**28.** In schedule 5 to the PMS Agreements Regulations (other contractual terms), after paragraph 73 (provision of information), insert—

#### **“Publication of earnings information**

**73A.**—(1) The contractor must publish each year on its practice website (if it has one) the information specified in sub-paragraph (2).

(2) The information specified in this sub-paragraph is—

(a) the mean net earnings in respect of the previous financial year of—

- (i) all general medical practitioners who were party to the agreement for a period of at least six months during that financial year, and
- (ii) any general medical practitioners who were employed or engaged by the contractor to provide services under the contract in the contractor’s practice, whether on a full-time or part-time basis, for a period of at least six months during that financial year; and

(b) the—

- (i) total number of any general medical practitioners to whom the earnings information referred to in paragraph (a) relates, and
- (ii) (where applicable) the number of those practitioners who have been employed or engaged by the contractor to provide services under the agreement in the contractor’s practice on a full time or a part time basis and for a period of at least six months during the financial year in respect of which that information relates.

(3) The information specified in sub-paragraph (2) must be—

- (a) published by the contractor before the end of the financial year following the financial year to which that information relates; and
- (b) made available by the contractor in hard copy form on request.

(4) For the purposes of this paragraph, “mean net earnings” are to be calculated by reference to the earnings of a general medical practitioner that, in the opinion of the Board, are attributable to the performance or provision by the practitioner under the agreement of medical services to which Part 4 of the 2006 Act applies, after having disregarded any expenses properly incurred in the course of performing or providing those services.”.

### **Amendment of paragraph 94 of Schedule 5 to the PMS Agreements Regulations**

**29.** In Schedule 5 to the PMS Agreements Regulations (other contractual terms), in paragraph 94(19) (dispute resolution: non-NHS contracts), for sub-paragraph (1) substitute—

“(1) In the case of an agreement that is not an NHS contract, any dispute arising out of or in connection with the agreement, except matters dealt with under the complaints procedure

pursuant to Part 6, may be referred for consideration and determination to the Secretary of State—

- (a) if it relates to a period when the contractor was treated as a health service body, by the contractor or by the Board; or
- (b) in any other case, by the contractor or, if the contractor agrees in writing, by the Board.”.

#### **Amendment of Schedule 10 to the PMS Agreements Regulations**

**30.** In Schedule 10 of the PMS Agreements Regulations(20) (information to be included in a contractor’s practice leaflet) after paragraph 16 (information about out of hours services which are not provided by the contractor) insert—

“**17.** Information about the assignment by the contractor to its new and existing patients of an accountable GP in accordance with paragraph 13ZB of Schedule 5.

**18.** Information about the assignment by the contractor to its patients aged 75 and over of an accountable GP under paragraph 13A of Schedule 5.”.