

## SCHEDULE 1

### CONTENT OF AGREEMENTS

#### PART 5

#### RECORDS, INFORMATION, NOTIFICATIONS AND RIGHTS OF ENTRY

##### **Patient records**

**33.**—(1) In this paragraph, “computerised records” means records created by way of entries on a computer.

(2) The provider shall keep adequate records of its attendance on and treatment of its patients and shall do so—

- (a) on forms supplied to it for the purpose by the Health Board; or
- (b) with the written consent of the Health Board, by way of computerised records,

or in a combination of those two ways.

(3) The provider shall include in the records referred to in sub-paragraph (2) clinical reports sent in accordance with paragraph 3 or, where the provider has a provider’s list of patients, from any other health care professional who has provided clinical services to a person on the provider’s list of patients.

(4) The consent of the Health Board required by sub-paragraph (2)(b) shall not be withheld nor withdrawn provided the Health Board is satisfied, and continued to be satisfied, that—

- (a) the computer system upon which the provider proposes to keep the records has been accredited by the Scottish Ministers or another person on their behalf as suitable for that purpose in accordance with “RFA V.1. – Requirements for Accreditation in General Practice Computer Systems in Scotland”(1);
- (b) the security measures, audit and system management function incorporated into the computer system as accredited in accordance with paragraph (a) have been enabled; and
- (c) the provider is aware of, and has signed an undertaking that it will have regard to any guidelines issued by the Scottish Ministers and notified to the provider by the Health Board concerning good practice in the keeping of electronic patient records.

(5) Where the provider keeps computerised records, the provider shall, as soon as possible following a request from the Health Board, allow the Board to access the information recorded on the provider’s computer system by means of the audit function referred to in sub-paragraph (4)(b) to the extent necessary for the Board to confirm that the audit function is enabled and functioning correctly.

(6) A provider whose patient records are computerised records shall not disable, nor attempt to disable, either the security measures or the audit and system management functions referred to in sub-paragraph (4)(b).

##### **Confidentiality of personal data**

**34.** The provider shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

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(1) RFA V.1 is published on Scottish Health on the Web (SHOW) at the following link: <http://www.show.scot.nhs.uk/publications/me/gpcomputerrecords/rfav1.pdf>.

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### **Practice leaflet**

35. The provider shall—

- (a) compile a document (in this paragraph called a practice leaflet) which shall include the information specified in Schedule 6;
- (b) review its practice leaflet at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and
- (c) make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

### **Provision of information**

36.—(1) Subject to sub-paragraph (2), the provider shall, at the request of the Health Board, produce to the Board or to a person authorised in writing by the Board or allow the Board, or a person authorised in writing by it, to access—

- (a) any information which is reasonably required by the Board for the purposes of or in connection with the agreement; and
- (b) any other information reasonably required in connection with the Health Board's functions.

(2) The provider shall not be required to comply with any request made in accordance with sub-paragraph (1) unless it has been made by the Health Board in accordance with directions relating to the provision of information by providers given to it by the Scottish Ministers under section 2(5) of the Act(2).

### **Inquiries about prescriptions and referrals**

37.—(1) The provider shall, subject to sub-paragraphs (2) and (3), sufficiently answer any inquiries whether oral or in writing from the Health Board concerning—

- (a) any prescription form issued by a prescriber;
- (b) the considerations by reference to which prescribers issue such forms;
- (c) the referral, by or on behalf of the provider, of any patient to any other services provided under the Act; or
- (d) the considerations by which the provider makes such referrals or provides for them to be made on its behalf.

(2) An inquiry referred to in sub-paragraph (1) may only be made for the purpose either of obtaining information to assist the Health Board to discharge its functions or of assisting the provider in the discharge of its obligations under the agreement.

(3) The provider shall not be obliged to answer any inquiry referred to in sub-paragraph (1) unless it is made—

- (a) in the case of sub-paragraph (1)(a) or (b), by an appropriately qualified health care professional;
- (b) in the case of sub-paragraph (1)(c) or (d), by an appropriately qualified medical practitioner,

appointed in either case by the Health Board to assist the Board in the exercise of its functions under this paragraph and that person produces, on request, written evidence that the person is authorised by the Health Board to make such an inquiry on its behalf.

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(2) 1978 c. 29. Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19(1).

### **Reports to a medical officer**

**38.**—(1) The provider shall, if it is satisfied that the patient consents—

- (a) supply in writing to a medical officer within such reasonable period as that officer, or an officer of the Department for Work and Pensions on that officer's behalf and at that officer's direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the provider or a person acting on the provider's behalf has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by a medical officer, or by an officer of the Department for Work and Pensions on that officer's behalf and at that officer's direction, about a prescription form or medical certificate issued by the provider or on the provider's behalf or about any statement which the provider or a person acting on the provider's behalf has made in a report.

(2) For the purpose of satisfying the provider that the patient has consented as required by paragraph (1), the provider may (unless it has reason to believe the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department for Work and Pensions, that that officer holds the patient's written consent.

### **Annual return and review**

**39.**—(1) The provider shall submit an annual return relating to the agreement to the Health Board.

(2) Following receipt of the return referred to in sub-paragraph (1), the Health Board shall arrange with the provider an annual review of its performance in relation to the agreement.

(3) Either the provider or the Health Board may, if it wishes to do so, invite the area medical committee for the area of the Health Board to participate in the annual review.

(4) The Health Board shall prepare a draft record of the review referred to in sub-paragraph (2) for comment by the provider and, having regard to such comments, shall produce a final written record of the review.

(5) A copy of the final record referred to in sub-paragraph (4) shall be sent to the provider.

### **Notifications to the Health Board**

**40.** In addition to any requirements of notification elsewhere in the regulations, the provider shall notify the Health Board in writing, as soon as reasonably practicable, of—

- (a) any serious incident that in the reasonable opinion of the provider affects or is likely to affect the provider's performance of its obligations under the agreement;
- (b) any circumstances which give rise to the Health Board's right to terminate the agreement under paragraph 66 or 67;
- (c) any appointments system which it proposes to operate and the proposed discontinuance of any such system;
- (d) where the provider has a provider's list of patients, any change of which it is aware in the address of a registered patient; and
- (e) the death of any patient of which it is aware.

### **Notifications to the Health Board**

**41.** The provider shall, unless it is impracticable for it to do so, notify the Health Board in writing within 28 days of any occurrence requiring a change in the information about it published by the

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Health Board in accordance with regulations made under section 2C(3) of the Act (functions of Health Boards: primary medical services)(3).

#### **Notice provisions specific to agreements with one or more companies limited by shares**

**42.**—(1) Where a company limited by shares is a party to the agreement, the provider shall give notice to the Health Board forthwith when—

- (a) any share in the company is transmitted or transferred (whether legally or beneficially) to another person on a date after the agreement has come into force;
- (b) the company passes a resolution or a court of competent jurisdiction makes an order that one or more of those companies be wound up;
- (c) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the company;
- (d) circumstances arise which would enable the court to make a winding up order in respect of the company; or
- (e) the company is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986(4).

(2) A notice under sub-paragraph (1)(a) shall confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder—

- (a) where the company is a qualifying body, within the meaning of section 17D(2) of that Act, a person falling within section 17D(1)(a) to (d) of the Act (persons with whom agreements may be made); and
- (b) satisfies the condition imposed on shareholders by virtue of regulation 3 (general conditions relating to providers).

#### **Notice provisions specific to an agreement with one or more partnerships**

**43.**—(1) Where a partnership is party to the agreement, the provider shall give notice to the Health Board forthwith—

- (a) when a partner leaves or informs the other members of the partnership of which they are a member, that the partner intends to leave the partnership, and the date upon which the partner left or will leave the partnership;
- (b) when a new partner joins a partnership.

(2) A notice under sub-paragraph (1)(b) shall—

- (a) state the date that the new partner joined the partnership;
- (b) confirm that the new partner satisfies the condition imposed by regulation 3 (general conditions relating to providers); and
- (c) state whether the new partner is a general or a limited partner.

#### **Notification of deaths**

**44.**—(1) The provider shall report, in writing, to the Health Board, the death on the provider's practice premises of any patient no later than the end of the first working day after the date on which the death occurred.

(2) The report shall include—

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(3) Section 2C was inserted into the Act by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), section 1(2).

(4) [1986, c. 45](#).

- (a) the patient's full name;
  - (b) the patient's National Health Service number where known;
  - (c) the date and place of death;
  - (d) a brief description of the circumstances, as known, surrounding the death;
  - (e) the name of any medical practitioner or other person treating the patient whilst on the practice premises; and
  - (f) the name, where known, of any other person who was present at the time of the death.
- (3) The provider shall send a copy of the report referred to in sub-paragraph (1) to any other Health Board in whose area the deceased was resident at the time of the patient's death.

#### **Notifications to patients following variation of the agreement**

**45.** Where the agreement is varied in accordance with Part 8 of this Schedule and, as a result of that variation—

- (a) there is to be a change in the range of services provided to the provider's patients; or
- (b) where the provider has a provider's list of patients, patients who are on that list are to be removed from that list,

the Health Board shall notify those patients in writing of the variation and its effect and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of essential services (or their equivalent).

#### **Entry and inspection by the Health Board**

**46.—(1)** Subject to the conditions in sub-paragraph (2), the provider shall allow persons authorised in writing by the Health Board to enter and inspect the practice premises at any reasonable time.

- (2) The conditions referred to in sub-paragraph (1) are that—
- (a) reasonable notice of the intended entry has been given;
  - (b) written evidence of the authority of the person seeking entry is produced to the provider on request; and
  - (c) entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

(3) Either the provider or the Health Board may, if it wishes to do so, invite the area medical committee for the area of the Board to be present at an inspection of the practice premises which takes place under this paragraph.