



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 2

#### PHARMACEUTICAL SERVICES

### CHAPTER 2

#### CHANGES TO EXISTING ARRANGEMENTS

#### *England and Wales*

#### **42 Dispensing of NHS prescriptions and provision of pharmaceutical services**

- (1) For section 41 of the 1977 Act (arrangements for pharmaceutical services) there shall be substituted—

#### **“41 Arrangements for pharmaceutical services**

- (1) It is the duty of every Health Authority, in accordance with regulations which shall be made for the purpose, to arrange as respects their area for the provision to persons who are in that area of—
- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown;
  - (b) proper and sufficient drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of—
    - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)); or
    - (ii) his functions in the armed forces of the Crown;

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- (c) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision of general dental services or equivalent services in the Scottish health service or the Northern Ireland health service;
  - (d) such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown; and
  - (e) such other services as may be prescribed.
- (2) The services provided under this section are, together with additional pharmaceutical services provided in accordance with a direction under section 41A, referred to in this Act as “pharmaceutical services”.
- (3) The descriptions of persons which may be prescribed for the purposes of subsection (1)(d) are the following, or any sub-category of such a description—
- (a) persons who are registered by any board established under the Professions Supplementary to Medicine Act 1960 (c. 66);
  - (b) persons who are registered pharmacists;
  - (c) persons whose names are entered in a roll or record established by the General Dental Council by virtue of section 45 of the Dentists Act 1984 (c. 24) (dental auxiliaries);
  - (d) persons who are ophthalmic opticians;
  - (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21);
  - (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17);
  - (g) persons who are registered in the register of qualified nurses, midwives and health visitors maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997 (c. 24);
  - (h) persons who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8);
  - (i) any other description of persons which appears to the Secretary of State to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the Secretary of State considers it appropriate to specify.
- (4) A determination under subsection (1)(d) may—
- (a) make different provision for different cases;
  - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered;
  - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.

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- (5) The arrangements which may be made by a Health Authority under subsection (1) include arrangements for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.
- (6) Where a person with whom a Health Authority makes arrangements under subsection (1) wishes to provide services to persons outside the area of the Health Authority, he may, subject to any provision made by regulations in respect of arrangements under this section, provide such services under the arrangements.
- (7) In this section—
- “armed forces of the Crown” does not include forces of a Commonwealth country or forces raised in a colony;
- “listed” means included in a list for the time being approved by the Secretary of State for the purposes of this section; and
- “the Scottish health service” and “the Northern Ireland health service” mean respectively the health service established in pursuance of the National Health Service (Scotland) Act 1947 (c. 27) or any service provided in pursuance of Article 4(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).”
- (2) In section 43 of the 1977 Act (persons authorised to provide pharmaceutical services), in subsection (3), for “section 41(d)” there shall be substituted “section 41(1)(e)”.