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STATUTORY INSTRUMENTS

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**1991 No. 573**

**The National Health Service (Fund-Holding Practices) (General) (Scotland) Regulations 1991**

**PART II**

**Continuing Recognition**

**Conditions for continuing recognition**

**2.—**(1) The members of a fund-holding practice shall continue to be entitled to recognition as a fund-holding practice if and for so long as the conditions specified in paragraph (2) are fulfilled in relation to the practice.

(2) The conditions referred to in paragraph (1) are that—

(a) the practice does not include both—

- (i) a member who practises in a partnership where the total number of patients on the lists of patients of the medical practitioners in the partnership exceeds 9,000; and
- (ii) a member who practises in another such partnership;

(b) there is a total of at least 9,000 patients on the lists of patients of the members of the practice or, though there is a total of less than 9,000 patients on those lists, there is likely, in the opinion of the relevant Health Board, to be a total of at least 9,000 on those lists within the period of twelve months following the date on which it came to the notice of the relevant Health Board that the total number of patients on the lists of members of the practice was less than 9,000;

(c) where the members of the practice are not partners in a single partnership, there is in force an agreement such as is mentioned in regulation 4(2)(e) of the Applications Regulations;

(d) the members of the practice maintain a bank account (“the fund-holding account”) for the purpose of receiving an allotted sum or any part of it;

(e) except where liability to pay an allotted sum to the members of the fund-holding practice is discharged pursuant to section 87B(2)(b) of the Act, the members of the practice deal with the allotted sum or any part of it only through the fund-holding account;

(f) no sums are paid into the fund-holding account other than the allotted sum or any part of it, and no sums are paid out of the account except for purposes authorised by regulations 13, 15 and 16;

(g) the members of the practice send to the relevant Health Board, before the end of each month, such information relating to the preceding month as the relevant Health Board may reasonably require in relation to the management of the allotted sum and in particular to—

- (i) transactions effected through the fund-holding account;
- (ii) the amount standing in the fund-holding account at the end of the preceding month;
- (iii) whether any such amount includes an amount which may be applied for the purposes specified in regulation 16 (savings from the allotted sum); and

- (iv) the referrals of patients of members of the practice for treatment to be provided other than by members of the practice and in particular the arrangements made for the purchase of goods and services specified in the list referred to in regulation 13(2);
  - (h) the members of the practice submit to the relevant Health Board not later than six weeks after the end of the financial year to which they relate, the accounts which the practice is required to keep under sub-section 86(1A)(a) of the Act<sup>(1)</sup>;
  - (i) except in the circumstances specified in sub-paragraph (1)(a), (d), (e), (i), (j), (k), (l), (m) and (o) of paragraph 20 (acceptance of fees) of Part I of Schedule 1 (terms of service for doctors) to the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974<sup>(2)</sup>, the members of the practice do not demand or accept from any patient of a member of the practice a payment (including a payment in kind) in respect of any treatment—
    - (i) provided by a member of the practice; or
    - (ii) which a member of the practice has arranged to be provided for the patient, under the Act;
  - (j) no goods and services specified in a list approved under regulation 13(2) shall be purchased for a patient of a member of the practice from any person or body in relation to which any member of the practice has a conflict of interest unless—
    - (i) the relevant Health Board has consented in writing to the purchase of those goods and services from that person or body; or
    - (ii) it is impracticable, having regard to the condition of the patient, to obtain the consent and no alternative is available; or
    - (iii) the body is a health service body other than a fund-holding practice;
  - (k) where the relevant Health Board has consented under sub-paragraph (j)(i) above, the members of the practice shall inform that Board in writing forthwith of any change in either—
    - (i) the facilities made available; or
    - (ii) the charges made for the services provided,
 by the person or body in respect of which any such consent has been given;
  - (l) the allotted sum is applied only for the purposes specified in regulations 12, 13, 15 and 16;
  - (m) the members of a fund-holding practice have in place administrative and financial systems conducive to the effective and efficient management of the allotted sum.
- (3) In this regulation—
- (a) a member of a fund-holding practice shall be treated as having a conflict of interest in relation to a body if—
    - (i) he is a director of, or in the employment of, the body; or
    - (ii) he is a partner of, or is in the employment of, or is a close relative of, a person who is a director of the body; or
    - (iii) where the body is a fund-holding practice, he is a close relative of a member of the practice; or
    - (iv) he is a close relative of a person in the employment of the body; or
    - (v) he has a beneficial interest in the securities of the body;

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(1) Section 86(1A) was inserted by the 1990 Act, section 36(4).

(2) S.I. 1974/506; relevant amending instruments are S.I. 1981/56, 1982/1279 and 1989/1990.

- (b) a member of a fund-holding practice shall be treated as having a conflict of interest in relation to a person if he is a close relative of, or a partner of, or is in the employment of that person;
- (c) “close relative” means a husband, wife, brother, sister, father, mother, son or daughter.

### **Additions to existing fund-holding practices**

3.—(1) Where a medical practitioner (whether or not he is a member of another fund-holding practice) wishes to become a member of an existing fund-holding practice then, except in the circumstances specified in paragraph (2), he and the members of the existing fundholding practice shall apply to the relevant Health Board for recognition as a fund-holding practice in accordance with the Applications Regulations.

(2) Paragraph (1) shall not apply to a medical practitioner who becomes a partner of a member of a fund-holding practice whether in succession to another medical practitioner who has died or has left the practice, or otherwise as a result of the grant of an application made by the medical practitioner to a Health Board under section 20(1) of the Act<sup>(3)</sup> to be included in the list of names of medical practitioners undertaking to provide general medical services in the area of such a Board and that application has been granted.

(3) A medical practitioner who becomes a partner of a member of a fund-holding practice in the circumstances described in paragraph (2) shall, as from the date on which he becomes such a partner be a member of that fund-holding practice notwithstanding that he did not participate in the making of an application under regulation 3 of the Applications Regulations.

(4) Where a person becomes a member of a fund-holding practice and paragraph (2) applies, the practice shall forthwith give written notice to the relevant Health Board of the fact, the date on which he became a partner, the name of the new member and shall send to that Board a copy of any Agreement entered into with the new member for the purposes of regulation 4(2)(e) of the Applications Regulations.

### **Withdrawal or death of a member of a fund-holding practice**

4.—(1) Subject to paragraph (2), a member of a fund-holding practice may withdraw from the practice and if he does so the remaining members of the practice shall continue to be recognised as a fund-holding practice unless and until the members of the practice renounce recognition or the relevant Health Board removes recognition from the practice in accordance with these Regulations.

(2) A member of a fund-holding practice who is a partner of another member of the practice may not withdraw from the fund-holding practice unless he also ceases at the same time to be a partner of that other member.

(3) Where a member of a fund-holding practice dies, the remaining members of the practice shall continue to be recognised as a fund-holding practice unless and until the members of the practice renounce recognition or the relevant Health Board removes recognition from the practice in accordance with these Regulations.

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(3) 1978 c. 29; section 20 was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 3 and Schedule 7 and by S.I. 1981/432, article 4(1).