

## SCHEDULE 5

### OTHER CONTRACTUAL TERMS

#### PART 5

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

##### Patient records

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

(2) The contractor shall keep adequate records of its attendance on and treatment of patients.

(3) A contractor which provides essential services (other than a Primary Care Trust) shall keep the records referred to in sub-paragraph (2)—

(a) on forms supplied to it for the purpose by the relevant body; or

(b) with the written consent of the relevant body, by way of computerised records,

or in a combination of those two ways.

(4) A contractor which provides essential services shall include in the records referred to in sub-paragraph (2) clinical reports sent in accordance with paragraph 5 of this Schedule or from any other health care professional who has provided clinical services to a person on its list of patients.

(5) The consent of the relevant body required by sub-paragraph (3)(b) shall not be withheld or withdrawn provided the relevant body is satisfied, and continues to be satisfied, that—

(a) the computer system upon which the contractor proposes to keep the records has been accredited by the Secretary of State or another person on his behalf in accordance with “General Medical Practice Computer Systems—Requirements for Accreditation—RFA99” version 1.0, 1.1 or 1.2 (DTS/Nurse Prescribing)(1);

(b) the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with paragraph (a) have been enabled; and

(c) the contractor is aware of, and has signed an undertaking that it will have regard to the guidelines contained in “Good Practice Guidelines for General Practice Electronic Patient Records” published on 26th September 2003(2).

(6) Where a patient’s records are computerised records, the contractor (other than the Primary Care Trust) shall, as soon as possible following a request from the relevant body, allow the relevant body to access the information recorded on the computer system on which those records are held by means of the audit function referred to in sub-paragraph (5)(b) to the extent necessary for the relevant body to confirm that the audit function is enabled and functioning correctly.

(7) The contractor (other than a Primary Care Trust) shall send the complete records relating to a patient to the relevant body—

(a) where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by the relevant body of the death, or (in any other case)

---

(1) RFA99 is published by the NHS Information Authority. Version 1.0 was published in October 1999; version 1.1 in February 2001; and version 1.2 (DTS/Nurse Prescribing) in August 2003. Copies are available on the NHS Information Authority’s website at [www.nhs.uk/nhsia/sat/specification/pages](http://www.nhs.uk/nhsia/sat/specification/pages). Copies may also be obtained by writing to the NHS Information Authority, Systems Accreditation and Testing team, Aqueous 2, Aston Cross, Rocky Lane, Birmingham B6 5RQ.

(2) This document is available on the Department of Health website at [www.doh.gov.uk/pricare/computing](http://www.doh.gov.uk/pricare/computing) or a copy can be obtained by writing to the Department of Health, PCIT Branch, Room 1N06, Quarry House, Quarry Hill, Leeds LS2 7UE.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

before the end of the period of one month beginning with the date on which it learned of the death as soon as possible, at the request of the relevant body; or

- (b) in any other case where the person is no longer registered with the contractor, as soon as possible at the request of the relevant body.

(8) To the extent that a patient's records are computerised records, the contractor complies with sub-paragraph (7) if it sends to the relevant body a copy of those records—

- (a) in written form; or
- (b) with the written consent of the relevant body in any other form.

(9) The consent of the relevant body to the transmission of information other than in written form for the purposes of sub-paragraph (8)(b) shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters—

- (a) the contractor's proposals as to how the record will be transmitted;
- (b) the contractor's proposals as to the format of the transmitted record;
- (c) how the contractor will ensure that the record received by the relevant body is identical to that transmitted; and
- (d) how a written copy of the record can be produced by the relevant body.

(10) A contractor whose patient's records are computerised records shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in sub-paragraph (5)(b).

### **Confidentiality of personal data**

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

### **Contractor's leaflet**

**72.** A contractor which provides essential services shall—

- (a) compile a document (in this paragraph called a practice leaflet) which shall include the information specified in Schedule 10;
- (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**

**73.—(1)** Subject to sub-paragraph (2), the contractor shall, at the request of the relevant body, produce to it or to a person authorised in writing by the relevant body, or allow it, or a person authorised by it, to access—

- (a) any information which is reasonably required by the relevant body for the purposes of or in connection with the agreement; and
- (b) except where the contractor is a Primary Care Trust, any other information which is reasonably required by it in connection with the relevant body's functions.

(2) The contractor shall not be required to comply with any request made in accordance with sub-paragraph (1) unless it has been made by the relevant body in accordance with directions made

by the Secretary of State under section 17 of the Act (Secretary of State's directions: exercise of functions)(3).

### **Requests for information from Patients' Forums**

**74.**—(1) Subject to sub-paragraph (2), where the contractor (other than a Primary Care Trust) receives a written request from the Patients' Forum established for the relevant body to produce any information which appears to the Forum to be necessary for the effective carrying out of its functions it shall comply with that request promptly and in any event no later than the twentieth working day following the date the request was made.

(2) The contractor shall not be required to produce information under sub-paragraph (1) which—

- (a) is confidential and relates to a living individual, unless at least one of the conditions specified in sub-paragraph (3) applies; or
- (b) is prohibited from disclosure by or under any enactment or any ruling of a court of competent jurisdiction or is protected by the common law, unless sub-paragraph (4) applies.

(3) The conditions referred to in sub-paragraph (2)(a) are—

- (a) the information can be disclosed in a form from which the identity of the individual cannot be ascertained; or
- (b) the individual consents to the information being disclosed.

(4) This paragraph applies where—

- (a) the prohibition of the disclosure of information arises because the information is capable of identifying an individual; and
- (b) the information can be disclosed in a form from which the identity of the individual cannot be ascertained.

(5) In a case where the information falls within—

- (a) sub-paragraph (2)(a) and the condition in sub-paragraph (3)(a) applies; or
- (b) sub-paragraph (2)(b) and sub-paragraph (4) applies,

a Patients' Forum may require the contractor to disclose the information in a form from which the identity of the individual concerned cannot be ascertained.

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

**75.**—(1) A contractor (other than a Primary Care Trust) shall, subject to sub-paragraphs (2) and (3), sufficiently answer any inquiries whether oral or in writing from the relevant body concerning—

- (a) any prescription form or repeatable prescription issued by a prescriber;
- (b) the considerations by reference to which prescribers issue such forms;
- (c) the referral by or on behalf of the contractor of any patient to any other services provided under the Act; or
- (d) the considerations by which the contractor 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 relevant body to discharge its functions or of assisting the contractor in the discharge of its obligations under the agreement.

---

(3) Section 17 of the Act was substituted by the Health Act 1999 (c. 8), section 12(1) and amended by the 2001 Act, Schedule 5, paragraph 5(3) and the 2002 Act, section 1(3) and Schedule 1, paragraph 7.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(3) The contractor 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; or
- (b) in the case of sub-paragraph (1)(c) or (d), by an appropriately qualified medical practitioner,

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

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

**76.**—(1) The contractor 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 his behalf and at his direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the contractor or a person acting on the contractor'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 his behalf and at his direction, about a prescription form or medical certificate issued by the contractor or on its behalf or about any statement which the contractor or a person acting on the contractor's behalf has made in a report.

(2) For the purpose of satisfying himself that the patient has consented as required by paragraph (1), the contractor 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 he holds the patient's written consent.

### **Annual return and review**

**77.**—(1) The contractor shall submit an annual return relating to the agreement to the relevant body which shall require the same categories of information from all persons who hold agreements with that body.

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

(3) The relevant body shall prepare a draft record of the review referred to in sub-paragraph (2) for comment by the contractor and, having regard to such comments, shall produce a final written record of the review.

(4) A copy of the final record referred to in sub-paragraph (3) shall be sent to the contractor.

### **Notifications to the relevant body**

**78.** In addition to any requirements of notification elsewhere in the regulations, the contractor shall notify the relevant body in writing, as soon as reasonably practicable, of—

- (a) any serious incident that, in the reasonable opinion of the contractor, affects or is likely to affect the contractor's performance of its obligations under the agreement;
- (b) any circumstances which give rise to the relevant body's right to terminate the agreement under paragraph 103, 104 or 105;
- (c) except where the contractor is a Primary Care Trust, any appointments system which it proposes to operate and the proposed discontinuance of any such system;

- (d) except where the contractor is a Primary Care Trust, 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.

**79.** The contractor (other than a Primary Care Trust) shall, unless it is impracticable for it to do so, notify the relevant body in writing within 28 days of any occurrence requiring a change in the information about it published by the relevant body in accordance with regulations made under section 16CC(3) of the Act (primary medical services)(4).

#### **Notice provisions specific to an agreement with a qualifying body**

**80.**—(1) Where a qualifying body is a party to the agreement, the contractor shall give notice in writing to the relevant body forthwith when—

- (a) any share in the qualifying body is transmitted or transferred (whether legally or beneficially) to another person on a date after the agreement has been entered into;
- (b) the qualifying body passes a resolution or a court of competent jurisdiction makes an order that the qualifying body be wound up;
- (c) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the qualifying body;
- (d) circumstances arise which would enable the court to make a winding up order in respect of the qualifying body; or
- (e) the qualifying body is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts)(5).

(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) falls within section 28D(1)(a), (b), (ba), (bb), (bc), (d) and (f) of the Act (persons with whom agreements may be made)(6); and
- (b) meets the further conditions imposed on shareholders by virtue of regulations 4 and 5.

#### **Notification of deaths**

**81.**—(1) The contractor shall report in writing to the relevant body the death on the contractor's 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—

- (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 contractor's premises; and
- (f) the name, where known, of any other person who was present at the time of the death.

(4) Section 16CC was inserted into the Act by section 170 of the 2003 Act.

(5) 1986 c. 45.

(6) Section 28D was inserted by section 21(1) of the 1997 Act and was amended by the 1999 Act, section 65(1), Schedule 4, paragraphs 4 and 16a; the 2002 Act, section 4(3), Schedule 3, paragraph 7(3) and the 2003 Act, section 177(1) to (6) and section 184 and Schedule 11, paragraph 15.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(3) The contractor shall send a copy of the report referred to in sub-paragraph (1) to any other Primary Care Trust in whose area the deceased was resident at the time of his death.

(4) The contractor shall also send a copy of the report referred to in sub-paragraph (1) to any other relevant body with whom it has an agreement to provide primary medical services.

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

**82.** 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 contractor's registered patients; or
- (b) patients who are on the contractor's list of patients are to be removed from that list,

the relevant body, or where the relevant body is a Strategic Health Authority, the contractor, 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 relevant body**

**83.—**(1) Subject to the conditions in sub-paragraph (2), the contractor shall allow persons authorised in writing by the relevant body to enter and inspect its 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 contractor 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.

#### **Entry and inspection by members of Patients' Forums**

**84.** The contractor (other than a Primary Care Trust) shall allow members of a Patients' Forum authorised by or under regulation 3 of the Patients' Forums (Functions) Regulations 2003 to enter and inspect the practice premises for the purpose of any of the Forum's functions in accordance with the requirements of that regulation.

#### **Entry and inspection by the Commission for Healthcare Audit and Inspection**

**85.** The contractor (other than a Primary Care Trust) shall allow persons authorised by the Commission for Healthcare Audit and Inspection to enter and inspect the premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry)(6).

---

(6) Section 28D was inserted by section 21(1) of the 1997 Act and was amended by the 1999 Act, section 65(1), Schedule 4, paragraphs 4 and 16a; the 2002 Act, section 4(3), Schedule 3, paragraph 7(3) and the 2003 Act, section 177(1) to (6) and section 184 and Schedule 11, paragraph 15.