

*This Statutory Instrument has been made, in part, as a consequence of defects in SI 2013/364 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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STATUTORY INSTRUMENTS

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**2014 No. 443**

**THE NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service Primary Dental Services  
(Miscellaneous Amendments) Regulations 2014**

<i>Made</i>	- - - -	<i>26th February 2014</i>
<i>Laid before Parliament</i>		<i>5th March 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2014</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 104(1) and (2), 109(1) and (3), 169(3), 272(7) and (8) and 273(4) of the National Health Service Act 2006(a).

**Citation and commencement**

1. These Regulations may be cited as the National Health Service Primary Dental Services (Miscellaneous Amendments) Regulations 2014 and come into force on 1st April 2014.

**Amendment of the National Health Service (Functions of the First-tier Tribunal relating to Primary Medical, Dental and Ophthalmic Services) Regulations 2010**

2.—(1) The National Health Service (Functions of the First-tier Tribunal relating to Primary Medical, Dental and Ophthalmic Services) Regulations 2010(b) are amended as follows.

(2) In regulation 5 (directions in respect of GDS contract disputes), in paragraph (2)(a)—

- (a) at the end of paragraph (ii), omit “or”;
- (b) at the end of paragraph (iii), insert “, or”;
- (c) after paragraph (iii), insert the following paragraph—

“(iv) in the case of a limited liability partnership, a member is no longer a practitioner as required by section 102(2A)(a) of the Act for the purposes of establishing continuing eligibility in accordance with section 102(1)(d) of the Act.”;

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(a) 2006 c.41. Section 104 has been amended by section 55(1) of, and paragraph 46 of Schedule 4 to, the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). Section 109 has been amended by section 55(1) of, and paragraph 50 of Schedule 4 to, the 2012 Act. Section 169 has been amended by S.I. 2010/22. Section 176 has been amended by section 55(1) of, and paragraph 94 of Schedule 4 to, the 2012 Act. Section 273 has been amended by sections 21(6), 47(7) and 55(1) of, and paragraph 137 of Schedule 4 to, the 2012 Act, and by S.I. 2010/22. By virtue of section 271(1) of the 2006 Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England. *See also* section 275(1) of the 2006 Act, which contains definitions of “regulations” and “prescribed” which are relevant to the powers being exercised.

(b) S.I. 2010/76; amended by S.I. 2013/235.

- (d) for “within paragraphs (i) and (ii),” substitute “within paragraphs (i), (ii) or (iv),”; and
- (e) for “the condition in section 102(2)(a)” substitute “the conditions in section 102(2)(a) or (2A)(a)”.

### **Amendment of the National Health Service (General Dental Services Contracts) Regulations 2005**

**3.—**(1) The National Health Service (General Dental Services Contracts) Regulations 2005(a) are amended as follows.

(2) In regulation 2(1) (interpretation), for the definition of “course of treatment” substitute—

““course of treatment” means—

- (a) an examination of a patient, an assessment of that patient’s oral health, and the planning of any treatment to be provided to that patient as a result of that examination and assessment; and
- (b) the provision of any planned treatment (including any treatment planned at a time other than the time of the initial examination) to that patient up to the date on which—
  - (i) each and every component of the planned treatment has been provided to the patient, or
  - (ii) the patient either voluntarily withdraws from, or is withdrawn by the provider from, treatment,

by, unless the context otherwise requires, one or more providers of primary dental services, except that it does not include the provision of orthodontic services or dental public health services and, where the course of treatment is an interim care course of treatment provided under a Capitation and Quality Scheme 2 Agreement in the context of regulation 13A of the NHS Charges Regulations (charges in respect of primary dental services provided under a Capitation and Quality Scheme 2 Agreement), it does not include the treatment mentioned in sub-paragraph (a);”.

(3) In Schedule 2 (provision of services: units of dental activity and units of orthodontic activity), in paragraph 1, after sub-paragraph (2) insert—

“(3) Where a patient is referred by the contractor for advanced mandatory services to another provider of primary dental services, the appropriate number of units of dental activity provided by—

- (a) that contractor; and
- (b) the other provider of primary dental services, if that provider is also a contractor,

must be calculated on the basis of the components of the course of treatment which they actually provide, notwithstanding that the treatment constitutes a single banded course of treatment for charging purposes.”.

(4) In Schedule 4 (patient information leaflets), omit paragraph 16 (NHS Direct details).

### **Amendment of the National Health Service (Personal Dental Services Agreements) Regulations 2005**

**4.—**(1) The National Health Service (Personal Dental Services Agreements) Regulations 2005(b) are amended as follows.

(2) In regulation 2(1) (interpretation), for the definition of “course of treatment” substitute—

““course of treatment” means—

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(a) S.I. 2005/3361. Relevant amendments were made by S.I. 2006/563, 2007/544, 2008/1700, 2010/22, 2011/1182, 2012/502 and 2273 and 2013/364.

(b) S.I. 2005/3373. Relevant amendments were made by S.I. 2006/563, 2007/544, 2010/22, 2011/1182, 2012/2273 and 2013/364.

- (a) an examination of a patient, an assessment of that patient’s oral health, and the planning of any treatment to be provided to that patient as a result of that examination and assessment; and
- (b) the provision of any planned treatment (including any treatment planned at a time other than at the time of the initial examination) to that patient up to the date on which—
  - (i) each and every component of the planned treatment has been provided to the patient, or
  - (ii) the patient either voluntarily withdraws from, or is withdrawn by the provider from, treatment,

by, unless the context otherwise requires, one or more providers of primary dental services, except that it does not include the provision of any orthodontic services or dental public health services and, where the course of treatment is an interim care course of treatment provided under a Capitation and Quality Scheme 2 Agreement in the context of regulation 13A of the NHS Charges Regulations (charges in respect of primary dental services provided under a Capitation and Quality Scheme 2 Agreement), it does not include the treatment mentioned in sub-paragraph (a);”.

(3) In Schedule 2 (provision of services: units of dental activity and units of orthodontic activity), in paragraph 1, after sub-paragraph (2) insert—

“(3) Where a patient is referred by the contractor for advanced mandatory services to another provider of primary dental services, the appropriate number of units of dental activity provided by—

- (a) that contractor; and
- (b) the other provider of primary dental services, if that provider is also a contractor, must be calculated on the basis of the components of the course of treatment which they actually provide, notwithstanding that the treatment constitutes a single banded course of treatment for charging purposes.”.

(4) In Schedule 4 (patient information leaflet)—

- (a) in paragraph 2—
  - (i) for “a qualifying body” substitute “a dental corporation”,
  - (ii) in sub-paragraph (a)—
    - (aa) for “that body”, substitute “that corporation”, and
    - (bb) for “the qualifying body” substitute “the dental corporation”, and
  - (iii) in sub-paragraph (b), for “that body’s” substitute “the corporation’s”; and
- (b) omit paragraph 15 (NHS Direct details).

### **Amendment of the National Health Service (Dental Charges) Regulations 2005**

**5.** In regulation 2(1) (interpretation) of the National Health Service (Dental Charges) Regulations 2005(a), for the definition of “course of treatment” substitute—

““course of treatment” means—

- (a) an examination of a patient, an assessment of that patient’s oral health, and the planning of any treatment to be provided to that patient as a result of that examination and assessment; and
- (b) the provision of any planned treatment (including any treatment planned at a time other than the time of the initial examination) to that patient up to the date on which—

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(a) S.I. 2005/3477. Relevant amendments were made by S.I. 2013/364.

- (i) each and every component of the planned treatment has been provided to the patient, or
- (ii) the patient either voluntarily withdraws from, or is withdrawn by the provider from, treatment,

by one or more providers of relevant primary dental services, except that where the course of treatment is an interim care course of treatment provided under a Capitation and Quality Scheme 2 Agreement in the context of regulation 13A, it does not include the treatment mentioned in sub-paragraph (a);”.

*Earl Howe*  
Parliamentary Under-Secretary of State,  
Department of Health

26th February 2014

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Functions of the First-tier Tribunal relating to Primary Medical, Dental and Ophthalmic Services) Regulations 2010 (“the Tribunal Regulations”), the National Health Service (General Dental Services Contracts) Regulations 2005 (“the GDS Contracts Regulations”), the National Health Service (Personal Dental Services Agreements) Regulations 2005 (“the PDS Agreements Regulations”) and the National Health Service (Dental Charges) Regulations 2005 (“the Dental Charges Regulations”).

Regulation 2 amends regulation 5 of the Tribunal Regulations, which contains directions to the First-tier Tribunal in respect of general dental services contracts disputes, to include disputes relating to contractors that are limited liability partnerships. This follows changes made by the Health and Social Care Act 2012 to the National Health Service Act 2006 that allowed limited liability partnerships to enter into general dental services contracts.

Regulations 3(2), 4(2) and 5 substitute the definition of “course of treatment” in the GDS Contracts Regulations, the PDS Agreements Regulations and the Dental Charges Regulations respectively to correct drafting errors.

Regulations 3(3) and 4(3) amend Schedule 2 to the GDS Contracts Regulations, and Schedule 2 to the PDS Agreements Regulations, in relation to the allocation of units of dental activity between contractors where a patient is referred for advanced mandatory treatment. The effect is to ensure that the calculation of the units of dental activity that each contractor undertakes, and so for which they are paid, only relates to the dental activity that they actually undertake.

Regulations 3(4) and 4(4)(b) amend the patient information leaflet requirements in Schedule 4 to the GDS Contracts Regulations, and in Schedule 4 to the PDS Agreements Regulations, to remove references to NHS Direct, which is to be abolished.

Regulation 4(4)(a) also amends Schedule 4 to the PDS Agreements Regulations to correct an erroneous reference to the wrong body.

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