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STATUTORY INSTRUMENTS

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**2015 No. 1879**

**The National Health Service (Personal Medical Services Agreements) Regulations 2015**

**PART 8**

**Persons who perform services**

**Qualifications of performers: medical practitioners**

**33.**—(1) Subject to paragraph (2), a medical practitioner may not perform medical services under the agreement unless that medical practitioner is—

- (a) included in the medical performers list;
- (b) not suspended from that list or from the Medical Register; and
- (c) not subject to interim suspension under section 41A of the Medical Act 1983<sup>(1)</sup> (interim orders).

(2) Paragraph (1) does not apply to any medical practitioner who is an exempt medical practitioner within the meaning of paragraph (3) but in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.

(3) For the purposes of this regulation, an “exempt medical practitioner” is—

- (a) a medical practitioner employed by an NHS trust, an NHS foundation trust, a Health Board or a Health and Social Services Trust who is providing services other than primary medical services at the practice premises;
- (b) a person who is provisionally registered under section 15<sup>(2)</sup> (provisional registration), 15A<sup>(3)</sup> (provisional registration for EEA nationals) or 21<sup>(4)</sup> (provisional registration) of the Medical Act 1983, and who is acting in the course of that person’s employment in a resident medical capacity in a post-registration programme;
- (c) a GP Specialty Registrar who has applied to the Board to be included in its medical performers list until the occurrence of the first of the following events—
  - (i) the Board gives notice to the GP Specialty Registrar of its decision in respect of that application; or
  - (ii) the end of a period of three months, beginning with the date on which that GP Specialty Registrar begins a postgraduate medical education and training scheme necessary for the award of a CCT;
- (d) a medical practitioner who—
  - (i) is not a GP Specialty Registrar,

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<sup>(1)</sup> 1983 c.54. Section 41A was inserted by S.I. 2015/794.

<sup>(2)</sup> 1983 c.54. Section 15 was substituted by S.I. 2006/1914.

<sup>(3)</sup> Section 15A was inserted by S.I. 2000/3041, and was amended by S.I. 2006/1914, S.I. 2007/3101 and S.I. 2011/1043.

<sup>(4)</sup> Section 21 was amended by S.I.1996/1591, S.I. 2002/3135, S.I. 2006/1914 and S.I. 2007/3101.

- (ii) is undertaking a post-registration programme of clinical practice supervised by the General Medical Council,
- (iii) has given notice to the Board of the intention to undertake part or all of a post-registration programme in England at least 24 hours before commencing any part of that programme, and
- (iv) has, with the notice given, provided the Board with evidence sufficient for the Board to satisfy itself that the medical practitioner is undertaking a post-registration programme.

### **Qualifications of performers: health care professionals**

**34.**—(1) A health care professional (other than one to whom regulation 33 applies) may not perform clinical services under the agreement unless—

- (a) that health care professional is registered with the professional body relevant to that health care professional's profession; and
- (b) that registration is not subject to a period of suspension.

### **Conditional registration or inclusion in a primary care list**

**35.** Where the registration of a health care professional, or, in the case of a medical practitioner, the inclusion of that practitioner's name in a primary care list, is subject to conditions, the contractor must ensure compliance with those conditions in so far as they are relevant to the agreement.

### **Clinical experience**

**36.** A health care professional may not perform any clinical services under the agreement unless that person has such clinical experience and training as is necessary to enable the person to properly perform such services.

### **Conditions for employment and engagement: medical practitioners**

**37.**—(1) Subject to paragraphs (2) and (3), a contractor may not employ or engage a medical practitioner (other than an exempt medical practitioner within the meaning of regulation 33(3)) unless—

- (a) the practitioner has provided the contractor with documentary evidence that the practitioner is entered in the medical performers list; and
- (b) the contractor has checked that the practitioner meets the requirements of regulation 36.

(2) Where—

- (a) the employment or engagement of a medical practitioner is urgently needed; and
- (b) it is not possible for the contractor to check the matters referred to in regulation 36 in accordance with paragraph (1)(b) before employing or engaging the practitioner,

the contractor may employ or engage the practitioner on a temporary basis for a single period of up to seven days while such checks are undertaken.

(3) Where the prospective employee is a GP Specialty Registrar, the requirements in paragraph (1) apply with modifications so that—

- (a) the GP Specialty Registrar is treated as having provided documentary evidence of the GP Specialty Registrar's application to the Board for inclusion in the medical performers list; and

- (b) confirmation that the GP Specialty Registrar's name appears on that list is not required until the end of the first two months of the GP Specialty Registrar's training period.

**Conditions for employment or engagement: health care professionals**

**38.**—(1) Subject to paragraph (2), a contractor may not employ or engage a health care professional to perform clinical services under the agreement unless—

- (a) the contractor has checked that the health care professional meets the requirements of regulation 34; or
- (b) the contractor has taken reasonable steps to satisfy itself that the health care professional meets the requirements of regulation 36.

(2) Where—

- (a) the employment or engagement of a health care professional is urgently needed; and
- (b) it is not possible for the contractor to check the matters referred to in regulation 36 in accordance with paragraph (1) before employing or engaging the healthcare professional,

the contractor may employ or engage the health care professional on a temporary basis for a single period of up to seven days while such checks are undertaken.

(3) When considering a health care professional's experience and training for the purposes of paragraph (1)(b), the contractor must, in particular, have regard to any—

- (a) post-graduate or post-registration qualification held by the health care professional; and
- (b) relevant training undertaken, and any relevant clinical experience gained, by the health care professional.

**Clinical references**

**39.**—(1) The contractor may not employ or engage a health care professional to perform clinical services under the agreement (other than a medical practitioner to whom regulation 33(2)(d) applies) unless—

- (a) that person has provided two clinical references, relating to two recent posts (which may include any current post) as a health care professional which lasted for three months without a significant break, or where this is not possible, a full explanation of why this is the case and details of alternative referees; and
- (b) the contractor has checked and is satisfied with the references.

(2) Where—

- (a) the employment or engagement of a health care professional is urgently needed; and
- (b) it is not possible for the contractor to obtain and check the references in accordance with paragraph (1)(b) before employing or engaging that health care professional,

the contractor may employ or engage the health care professional on a temporary basis for a single period of up to 14 days while the references are checked and considered, and for an additional period of a further seven days if the contractor believes that the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the contractor employs or engages the same person on more than one occasion within a period of three months, the contractor may rely on the references provided on the first occasion, provided that those references are not more than 12 months old.

**Verification of qualifications and competence**

**40.**—(1) The contractor must, before employing or engaging a person to assist it in the provision of services under the agreement, take reasonable steps to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which that person is to be employed or engaged.

(2) The duty imposed on the contractor by paragraph (1) is in addition to the duties imposed by regulations 37 to 39.

(3) When considering the competence and suitability of a person for the purposes of paragraph (1), the contractor must, in particular, have regard to that person's—

- (a) academic and vocational qualifications;
- (b) education and training; and
- (c) previous employment or work experience.

**Training**

**41.**—(1) The contractor must ensure that for any health care professional who is—

- (a) performing clinical services under the agreement, or
- (b) employed or engaged to assist in the performance of such services,

there are in place arrangements for the purpose of maintaining and updating the skills and knowledge of that health care professional in relation to the services which that health care professional is performing or assisting in the performance of.

(2) The contractor must afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

**Arrangements for GP Specialty Registrars**

**42.**—(1) The contractor may only employ a GP Specialty Registrar subject to the conditions specified in paragraph (2).

(2) The conditions specified in this paragraph are that the contractor must not, by reason only of having employed a GP Specialty Registrar, reduce the total number of hours for which other medical practitioners perform primary medical services under the agreement or for which other staff assist those medical practitioners in the performance of those services.

(3) Where a contractor employs a GP Specialty Registrar, the contractor must—

- (a) offer that GP Specialty Registrar terms of employment in accordance with such rates, and subject to such conditions, as are approved by the Secretary of State concerning the grants, fees, travelling and other allowances payable to GP Specialty Registrars; and
- (b) take into account the guidance contained in the document entitled “A Reference Guide to Postgraduate Specialty Training in the UK”(5).

**Doctors with provisional registration**

**43.** A contractor may not, by reason only of having employed or engaged a person who is—

(5) This guidance last published in May 2014 is available at <http://specialtytraining.hee.nhs.uk/files/2013/10/A-Reference-Guide-for-Postgraduate-Specialty-Training-in-the-UK.pdf>. Hard copies are available from Health Education England, 1st Floor, Blenheim House, Duncombe Street, Leeds, LS1 4PL.

- (a) provisionally registered under section 15, 15A or 21 of the Medical Act 1983(6); and
- (b) acting in the course of that person's employment in a resident medical capacity in a post-registration programme,

reduce the total number of hours in which other staff assist in the performance of medical services under the agreement.

#### **Notice requirements in respect of relevant prescribers**

**44.**—(1) For the purposes of this regulation, “a relevant prescriber” is—

- (a) a chiropodist or podiatrist independent prescriber;
- (b) an independent nurse prescriber;
- (c) a pharmacist independent prescriber;
- (d) a physiotherapist independent prescriber; or
- (e) a supplementary prescriber.

(2) The contractor must give notice to the Board where—

- (a) a relevant prescriber is employed or engaged by a contractor to perform functions which include prescribing;
- (b) a relevant prescriber is a party to the agreement whose functions include prescribing; or
- (c) the functions of a relevant prescriber whom the contractor already employs or has already engaged are extended to include prescribing.

(3) The notice under paragraph (2) must be given in writing to the Board before the expiry of the period of seven days beginning with the date on which—

- (a) the relevant prescriber was employed or engaged by the contractor or, as the case may be, became a party to the agreement (unless immediately before becoming such a party, paragraph (2)(a) applied to that relevant prescriber); or
- (b) the functions of the relevant prescriber were extended to include prescribing.

(4) The contractor must give notice to the Board where—

- (a) the contractor ceases to employ or engage a relevant prescriber in the contractor's practice whose functions include prescribing in the contractor's practice;
- (b) a relevant prescriber ceases to be a party to the agreement;
- (c) the functions of a relevant prescriber employed or engaged by the contractor in the contractor's practice are changed so that they no longer include prescribing in the contractor's practice; or
- (d) the contractor becomes aware that a relevant prescriber whom it employs or engages has been removed or suspended from the relevant register.

(5) The notice under paragraph (4) must be given in writing to the Board before the end of the second working day after the day on which an event described in sub-paragraphs (a) to (d) occurred in relation to the relevant prescriber.

(6) The contractor must provide the following information when it gives notice to the Board in accordance with paragraph (2)—

- (a) the person's full name;
- (b) the person's professional qualifications;

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(6) 1983 c.54. Section 15 was substituted by articles 2 and 26 of S.I. 2006/1914. Section 15A was inserted by regulations 2 and 3 of S.I. 2000/3041, and was amended by S.I. 2006/1914 and S.I. 2007/1043. Section 21 was amended by S.I. 1996/1591, S.I. 2002/3135, S.I. 2006/1914 and S.I. 2007/3101.

- (c) the person's identifying number which appears in the relevant register;
  - (d) the date on which the person's entry in the relevant register was annotated to the effect that the person was qualified to order drugs, medicines and appliances for patients;
  - (e) the date on which—
    - (i) the person was employed or engaged (if applicable),
    - (ii) the person became a party to the agreement (if applicable), or
    - (iii) the functions of the person were extended to include prescribing in the contractor's practice.
- (7) The contractor must provide the following information when it gives notice to the Board in accordance with paragraph (4)—
- (a) the person's full name;
  - (b) the person's professional qualifications;
  - (c) the person's identifying number which appears in the relevant register; and
  - (d) the date on which—
    - (i) the person ceased to be employed or engaged in the contractor's practice,
    - (ii) the person ceased to be a party to the agreement,
    - (iii) the functions of the person were changed so as to no longer include prescribing in the contractor's practice, or
    - (iv) the person was removed or suspended from the relevant register.

### **Signing of documents**

**45.**—(1) The contractor must ensure—

- (a) that the documents specified in paragraph (2) include—
    - (i) the clinical profession of the health care professional who signed the document; and
    - (ii) the name of the contractor on whose behalf the document is signed; and
  - (b) that the documents specified in paragraph (3) include the clinical profession of the health care professional who signed the document.
- (2) The documents specified in this paragraph are—
- (a) certificates issued in accordance with regulation 15, unless regulations relating to particular certificates provide otherwise; and
  - (b) any other clinical documents apart from—
    - (i) home oxygen order forms, and
    - (ii) the documents specified in paragraph (3).

(3) The documents specified in this paragraph are batch issues, prescription forms and repeatable prescriptions.

(4) This regulation is in addition to any other requirements relating to the documents specified in paragraphs (2) and (3) whether in these Regulations or elsewhere.

### **Level of skill**

**46.** The contractor must carry out its obligations under the agreement with reasonable care and skill.

### **Appraisal and assessment**

**47.—**(1) The contractor must ensure that any medical practitioner performing services under the agreement—

(a) participates in the appraisal system provided by the Board unless that medical practitioner participates in an appropriate appraisal system provided by another health service body or is an armed forces GP; and

(b) co-operates with the Board in relation to the Board's patient safety functions.

(2) The Board must provide an appraisal system for the purposes of paragraph (1)(a) after consultation with the Local Medical Committee (if any) for the area in which the practitioner is to provide services under the agreement and such other persons as appear to it to be appropriate.

(3) In paragraph (1), "armed forces GP" means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the armed forces of the Crown.