

## SCHEDULE 2

### Other required terms

## PART 5

### Sub-contracting

#### **Sub-contracting of clinical matters**

**43.**—(1) The contractor must not sub-contract any of its rights or duties under the agreement in relation to clinical matters to any person unless it has taken reasonable steps to satisfy itself that—

- (a) it is reasonable in all the circumstances to do so;
- (b) the person to whom any of those rights or duties is sub-contracted is qualified and competent to provide the service; and
- (c) the person holds adequate insurance in accordance with regulation 83.

(2) Where the contractor sub-contracts any of its rights or duties under the agreement in relation to clinical matters, it must—

- (a) inform the Board of the sub-contract as soon as reasonably practicable; and
- (b) provide the Board with such information in relation to the sub-contract as the Board may reasonably request.

(3) Where the contractor sub-contracts clinical services under sub-paragraph (1), the parties to the agreement are deemed to have agreed a variation to the agreement which has the effect of adding to the list of the contractor's premises any premises which are to be used by the sub-contractor for the purposes of the sub-contract and, in these circumstances, regulation 24(1) does not apply.

(4) A contractor must ensure that any person with whom it sub-contracts is prohibited from sub-contracting the clinical services which that person has agreed with the contractor to provide.

(5) The contractor, if it has a list of registered patients or a list of registered patients is held in respect of it, must not sub-contract any of its rights or duties under the agreement in relation to the provision of essential services to a company or firm that is—

- (a) wholly or partly owned by the contractor, or by any former or current employee of, or partner or shareholder in, the contractor;
- (b) formed by or on behalf of the contractor, or from which the contractor derives a pecuniary benefit; or
- (c) formed by or on behalf of a former or current employee of, or partner or shareholder in, the contractor, or from which such a person derives or may derive a pecuniary benefit,

where sub-paragraph (6) applies to that company or firm.

(6) This sub-paragraph applies to a company or firm which is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of goodwill of a medical practice in section 259(1) of the Act (sale of medical practices) and Schedule 21 to the Act (prohibition of sale of medical practices) or in any regulations made wholly or partly under those provisions.

---

(1) Section 259 was amended by paragraph 131 of Schedule 4 to the Health and Social Care Act 2012 (c.7).