

## SCHEDULE 5

### OTHER CONTRACTUAL TERMS

#### PART 5

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

###### **Patient records**

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

(2) The contractor shall keep adequate records of his attendance on and treatment of his patients and shall do so –

- (a) on forms supplied to him for the purpose by the Board; or
- (b) with the written consent of the Board, by way of computerised records,

or in a combination of those two ways.

(3) The contractor shall include in the records referred to in sub-paragraph (2) clinical reports sent in accordance with paragraph 7 or from any other health care professional who has provided clinical services to a person on his list of patients.

(4) The consent of the Board required by sub-paragraph (2)(b) shall not be withheld or withdrawn provided the Board is satisfied, and continues to be satisfied, that –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 Department or another person on its 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 head (a) have been enabled; and
- (c) the contractor is aware of, and has signed an undertaking that he will have regard to—
  - (i) any guidelines issued by the Department and notified in writing to the contractor by the Board; and
  - (ii) any document amending any guidelines referred to in (i), which has been notified to the contractor by the Board,

concerning good practice in the keeping of electronic patient records.

(5) Where a patient’s records are computerised records, the contractor shall, as soon as possible following a request from the Board, allow the Board 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 (4)(b) to the extent necessary for the Board to confirm that the audit function is enabled and functioning correctly.

(6) The contractor shall send the complete records relating to a patient to the Board –

- (a) where a person on his list dies, before the end of the period of 14 days beginning with and including the date on which he was informed by the Board of the death, or (in any other

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

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case) before the end of the period of one month beginning with and including the date on which it learned of the death; 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 Board.

(7) To the extent that a patient's records are computerised records, the contractor complies with sub-paragraph (6) if he sends to the Board a copy of those records –

(a) in written form; or

(b) with the written consent of the Board in any other form.

(8) The consent of the Board to the transmission of information other than in written form for the purposes of sub-paragraph (7)(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 Board is identical to that transmitted; and

(d) how a written copy of the record can be produced by the Board.

(9) A contractor whose patient 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 (4)(b).

#### **Access to records for the purpose of the Quality Information Preparation Scheme**

69.—(1) The contractor must provide access to his patient records on request to any appropriately qualified person with whom the Board has made arrangements for the provision of the Quality Information Preparation Scheme referred to in section 7 of the Statement of Financial Entitlements.

(2) The contractor shall not be obliged to grant access to a person referred to in sub-paragraph (1) unless he produces, on request, written evidence that he is authorised by the Board to act on its behalf.

#### **Confidentiality of personal data**

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

#### **Practice leaflet**

71. The contractor shall –

(a) compile a document (in this paragraph called a practice leaflet) which shall include the information specified in Schedule 7;

(b) review his 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 his patients and prospective patients.

#### **Provision of information**

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

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- (a) any information which is reasonably required by the Board for the purposes of or in connection with the contract; and
- (b) any other information which is reasonably required in connection with the Board'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 Board in accordance with directions relating to the provision of information by contractors given to it by the Department under Article 17 of the Order.

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

73.—(1) The contractor shall, subject to sub-paragraphs (2) and (3), sufficiently answer any inquiries whether oral or in writing from the Board concerning –

- (a) any prescription form 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 Order; or
- (d) the considerations by which the contractor makes such referrals or provides for them to be made on his behalf.

(2) An inquiry referred to in sub-paragraph (1) may only be made for the purpose either of obtaining information to assist the Board to discharge its functions or of assisting the contractor in the discharge of his obligations under the contract.

(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 Board 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 Board to make such an inquiry on its behalf.

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

74.—(1) The contractor shall, if he 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 Social Development 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 Social Development on his behalf and at his direction, about a prescription form or medical certificate issued by the contractor or on his 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 Social Development, that he holds the patient's written consent.

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### **Annual return and review**

75.—(1) The contractor shall submit an annual return relating to the contract to the Board which shall require the same categories of information from all persons who hold contracts with that Board.

(2) Following receipt of the return referred to in sub-paragraph (1), the Board shall arrange with the contractor an annual review of his performance in relation to the contract.

(3) Either the contractor or the Board may, if they wish to do so invite the Local Medical Committee participate in the annual review.

(4) The Board 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.

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

### **Notifications to the Board**

76. In addition to any requirements of notification elsewhere in the regulations, the contractor shall notify the Board 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 his obligations under the contract;
- (b) any circumstances which give rise to the Board's right to terminate the contract under paragraph 103, 104 or 105(1);
- (c) any appointments system which he proposes to operate and the proposed discontinuance of any such system;
- (d) any change of which he is aware in the address of a registered patient;
- (e) the death of any patient of which he is aware.

77. The contractor shall, unless it is impracticable for him to do so, notify the Board in writing within 28 days of any occurrence requiring a change in the information about him published by the Board in accordance with regulations made under Article 56(3) of the Order(2).

78. The contractor shall notify the Board in writing of any person other than a registered patient or a person whom he has accepted as a temporary resident to whom he has provided the essential services described in regulation 15(6) or (8) within the period of 28 days beginning on the day that the services were provided.

### **Notice provisions specific to a contract with a company limited by shares**

79.—(1) A contractor which is a company limited by shares shall give notice in writing to the Board forthwith when –

- (a) any share in the contractor is transmitted or transferred (whether legally or beneficially) to another person on a date after the contract has been entered into;
- (b) it passes a resolution or the High Court makes an order that the contractor be wound up;
- (c) circumstances arise which might entitle a creditor or the High Court to appoint a receiver, administrator or administrative receiver for the contractor;
- (d) circumstances arise which would enable the High Court to make a winding up order in respect of the contractor; or

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(2) Article 56 was inserted into the Order by Article 3 of the 2004 Order

- (e) the contractor is unable to pay his debts within the meaning of Article 103 of the Insolvency (Northern Ireland) Order 1989<sup>(3)</sup>.
- (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) is a medical practitioner, or that he satisfies the conditions specified in Article 57B(2)(b)(i) to (iv) of the Order<sup>(4)</sup>; and
  - (b) meets the further conditions imposed on shareholders by virtue of regulations 4 and 5.

### **Notice provisions specific to a contract with two or more individuals practising in partnership**

- 80.—(1) A contractor which is a partnership shall give notice in writing to the Board forthwith when –
- (a) a partner leaves or informs his partners that he intends to leave the partnership, and the date upon which he left or will leave the partnership;
  - (b) a new partner joins the partnership.
- (2) A notice under sub-paragraph (1)(b) shall –
- (a) state the date that the new partner joined the partnership;
  - (b) confirm that the new partner is a medical practitioner, or that he satisfies the conditions specified in Article 57B(2)(b)(i) to (iv) of the Order;
  - (c) confirm that the new partner meets the conditions imposed by regulations 4 and 5; and
  - (d) state whether the new partner is a general or a limited partner.

### **Notification of deaths**

- 81.—(1) The contractor shall report in writing to the Board the death on his practice 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 Central Health Index number or Health and Care 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 practice premises; and
  - (f) the name, where known, of any other person who was present at the time of the death.
- (3) The contractor shall send a copy of the report referred to in sub-paragraph (1) to any other Board in whose area the deceased was resident at the time of his death.

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

82. Where the contract is varied in accordance with Part 8 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,

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(3) S.I.1986 c. 45

(4) Article 57B was inserted into the Order by Article 4 of the 2004 Order

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the Board 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 Board**

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

(3) Either the contractor or the Board may, if it wishes to do so, invite the Local Medical Committee for the area of the Board to be present at an inspection of the practice premises which takes place under this paragraph.