

SCHEDULE 1

Regulation 3

TERMS OF SERVICE FOR DENTISTS

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PART I

GENERAL

Interpretation

1. In these terms of service, unless the context otherwise requires—
 - (a) “the Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 2010;
 - (b) any reference to a numbered regulation is a reference to the regulation bearing that number in the Regulations;
 - (c) any reference to a numbered paragraph is a reference to the paragraph bearing that number in these terms of service, and any reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph;

- (d) any reference to a numbered Schedule is a reference to the Schedule to the Regulations bearing that number.

Incorporation of provisions of Regulations

2. Any provisions of the following affecting the rights and obligations of contractors and dentists shall be deemed to form part of the terms of service:—

- (a) the Regulations;
- (b) so much of the National Health Service (Discipline Committees) (Scotland) Regulations 2006⁽¹⁾ as relates to—
 - (i) the investigation of allegations that a contractor or a dentist has failed to comply with the terms of service, and other investigations to be made by the dental discipline committee and the joint discipline committee into the provision of general dental services and the action which may be taken by the Health Board as a result of such investigations;
 - (ii) any decision of the Scottish Ministers (whether on appeal or otherwise) in connection with any investigation referred to in head (i) of this sub-paragraph or with any decision of the Health Board; and
 - (iii) the investigation of record keeping;
- (c) regulations 4(4) and 6(2) of the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽²⁾; and
- (d) the National Health Service (Tribunal) (Scotland) Regulations 2004⁽³⁾.

General dental services

3.—(1) In providing general dental services for any person under these Regulations a contractor shall provide for—

- (a) a person aged 18 or over with whom a continuing care arrangement has been entered into, care and treatment under that arrangement; or
 - (b) for a person under the age of 18 with whom a capitation arrangement has been entered into, care and treatment under that arrangement.
- (2) A contractor may provide general dental services under the Regulations by way of—
- (a) treatment on referral for a person who is receiving dental services from another dentist (whether or not pursuant to the Act); or
 - (b) occasional treatment for any person—
 - (i) who is receiving care and treatment with another contractor under an arrangement mentioned in sub-paragraph (1)(a) or (b);
 - (ii) who does not wish to enter into an arrangement mentioned in sub-paragraph (1)(a) or (b);
 - (iii) with whom the contractor is not prepared to enter into an arrangement mentioned in sub-paragraph (1)(a) or (b); or
 - (iv) who is referred to the contractor under paragraph 14(1).

(1) [S.S.I. 2006/330](#), as amended by [S.S.I. 2009/308](#).

(2) [S.S.I. 2003/158](#) as amended by [S.S.I. 2004/101](#), [2005/121](#) and [2006/131](#).

(3) [S.S.I. 2004/38](#), amended by [S.S.I. 2004/122](#) and [271](#), [2005/335](#), [2006/122](#) and [2009/319](#).

PART II

CONTINUING CARE ARRANGEMENT, CAPITATION ARRANGEMENT AND TREATMENT ON REFERRAL

A continuing care arrangement

4.—(1) A contractor who accepts a person for care and treatment under a continuing care arrangement shall—

- (a) at the time at which the contractor accepts the patient provide the patient with the information about care and treatment under general dental services which is set out in Schedule 3 and with a form of acceptance supplied by the Health Board, or form to like effect, which shall specify—
 - (i) the name of the patient;
 - (ii) the name of the dentist who will carry out the care and treatment;
 - (iii) particulars of the places where the patient will receive care and treatment; and
 - (iv) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
 - (ii) the approximate period following which a further examination is recommended by the dentist;
 - (iii) the dentist's estimate of the NHS charge, if any, in respect of that care and treatment; and
 - (iv) any proposals which the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where at any time during the currency of a continuing care arrangement—
 - (i) the circumstances specified in sub-paragraph (2) apply; or
 - (ii) in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) or this paragraph needs to be varied;the patient is provided with a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub-paragraph;
- (d) complete the care and treatment (if any)—
 - (i) which is referred to in paragraph (b)(i) of this sub-paragraph; and
 - (ii) where sub-paragraph (2) does not apply, any care and treatment which is in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health;
- (e) provide the patient with emergency cover in accordance with paragraph 6; and

- (f) repair or replace in accordance with paragraph 7 any restoration which requires repair or replacement.
- (2) The circumstances in which the obligation mentioned in sub-paragraph (1)(c)(i) applies are where—
 - (a) the patient requests a new plan for treatment;
 - (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or
 - (c) the care and treatment which is to be provided includes any of the items of treatment mentioned in sub-paragraph (3).
- (3) The items of treatment referred to in sub-paragraph (2)(c) (and also in paragraph 5(2)(c)) are—
 - (a) non-surgical treatment of chronic periodontal diseases which is likely to involve 3 or more visits;
 - (b) provision of 3 or more permanent fillings;
 - (c) endodontic treatment;
 - (d) provision of a veneer, inlay, pinlay, crown or bridge;
 - (e) all surgical treatment other than the extractions of teeth;
 - (f) the extraction of—
 - (i) more than 2 teeth; or
 - (ii) any tooth which, in the opinion of the dentist, is likely to present special difficulty;
 - (g) provision of sedation in connection with any item of treatment;
 - (h) provision of prosthetic appliances; and
 - (i) orthodontic care and treatment.
- (4) Where a contractor accepts the transfer of a continuing care arrangement the contractor shall provide the patient with the information specified in sub-paragraphs (1)(a)(ii) to (iv) and assume the obligations set out in sub-paragraphs (1)(c) to (f).
- (5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.
- (6) Where a person who is in prison is accepted for care and treatment by a contractor the contractor shall ensure that a dentist examines the person at the time he or she is accepted for care and treatment.

A capitation arrangement

- 5.—**(1) A contractor who accepts a person for care and treatment under a capitation arrangement shall—
- (a) ensure that at the time at which the contractor accepts the patient, or, where sub-paragraph (3) applies at the time of a dentist's first examination of the patient, a dentist shall examine the patient and chart the patient's decayed, missing or filled teeth on the form supplied by the Health Board, or a form to like effect;
 - (b) ensure that, except where sub-paragraph (3) applies, following the dentist's first examination of the patient, the dentist shall provide to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding—

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- (i) appropriate education, advice, a care programme relating to the oral health needs of the patient; and
 - (ii) information about care and treatment under general dental services which is set out in Schedule 3, and with a form of acceptance supplied by the Health Board, or a form to like effect which shall specify—
 - (aa) the name of the patient;
 - (bb) the name of the dentist who will provide the care and treatment;
 - (cc) particulars of the places where the patient will receive care and treatment; and
 - (dd) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
 - (c) ensure that at the time of the first examination of the patient, the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
 - (ii) the approximate period following which a further examination is recommended by the dentist; and
 - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
 - (d) ensure that where at any time during the currency of a capitation arrangement—
 - (i) the circumstances specified in sub-paragraph (2) apply; or
 - (ii) in the opinion of the dentist, the care and treatment included in a plan for treatment provided under paragraph (c) or this head of this sub-paragraph needs to be varied;the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient or, the patient where in the opinion of the dentist the patient is capable of understanding, a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (c) of this sub-paragraph;
 - (e) complete the care and treatment (if any)—
 - (i) which is referred to in paragraph (c)(i) of this sub-paragraph; and
 - (ii) where sub-paragraph (2) does not apply, any care and treatment which is, in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health; and
 - (f) provide the patient with emergency cover in accordance with paragraph 6.
- (2) The circumstances referred to in sub-paragraph (1)(d)(i) are that—
- (a) the patient requests a new plan for treatment;
 - (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or

(c) the care and treatment which is to be provided includes any of the items of treatment mentioned in paragraph 4(3).

(3) A dental nurse or dental therapist can, on behalf of a contractor, accept a patient under the age of three years of age for care and treatment under a capitation arrangement and in so doing shall, at the time at which the patient is accepted, provide to at least one of the patient's parents, guardians or other person with care or control of the patient the appropriate education, advice, care programme, information and forms specified in sub-paragraph (1)(b).

(4) Where a contractor accepts the transfer of a capitation arrangement it shall provide the patient with the information specified in sub-paragraph (1)(b)(ii)(bb) to (dd) and assume the obligations set out in sub-paragraph (1)(d) to (f).

(5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.

Emergency cover

6.—(1) Subject to paragraph 18, in providing emergency cover under a continuing care arrangement or a capitation arrangement, a contractor shall make reasonable arrangements to secure that a patient requiring prompt care and treatment will receive such care and treatment as soon as appropriate either from the contractor or from another contractor or dentist.

(2) For the purposes of sub-paragraph (1) a patient requires prompt care and treatment where, in the opinion of a dentist—

(a) the patient's oral health is likely to deteriorate significantly without such care and treatment; or

(b) the patient is in severe pain by reason of the patient's oral condition,

but the provision of emergency cover does not include any obligation to repair or replace dentures.

(3) The obligation to provide emergency cover begins on the date on which the patient and the contractor enter into the continuing care arrangement or the capitation arrangement and ceases when that arrangement is terminated.

Repair or replacement of restorations

7.—(1) Subject to sub-paragraph (3) the contractor shall, as part of a continuing care arrangement, repair or replace at no charge to the patient any restoration specified in sub-paragraph (2) which the contractor or another contractor or dentist acting on the contractor's behalf or from whom the continuing care arrangement was transferred had provided by way of personal dental services in connection with a pilot scheme or, has provided under general dental services—

(a) under that continuing care arrangement; or

(b) under a capitation arrangement, with or transferred to that contractor where on termination of that arrangement the patient has immediately entered into the continuing care arrangement.

(2) The restorations referred to in sub-paragraph (1) are any filling, root filling, inlay, pinlay or crown which, within 12 months of the date on which it was provided, has to be repaired or replaced to secure oral health.

(3) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (1) where—

(a) within 12 months after the date on which the restoration was provided—

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- (i) a dentist has provided private treatment; or
 - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,
- on the tooth in respect of which the restoration was provided;
- (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with paragraph 4(1)(b) or (c) or 5(1)(c) or (d) and on the patient record that—
 - (i) the restoration was intended to be temporary in nature; or
 - (ii) in the dentist's opinion, a different form of restoration was more appropriate to secure oral health but, notwithstanding that advice, the patient insisted on the restoration which was provided;
 - (c) in the dentist's opinion the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
 - (d) the repair or replacement is required as a result of trauma.
- (4) The obligation to repair or replace any restoration under sub-paragraph (1) begins on the date on which the patient and the contractor enter into the continuing care arrangement and ceases when that arrangement is terminated.

Duration of a continuing care arrangement

8. A continuing care arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
 - (b) shall terminate where—
 - (i) the patient enters into a continuing care arrangement with another dentist;
 - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the care and treatment which might have otherwise been provided under the continuing care arrangement is to be provided privately; or
 - (iii) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 18.

Duration of a capitation arrangement

9. A capitation arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
 - (b) shall terminate where—
 - (i) the patient enters into a capitation arrangement with another dentist;
 - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the capitation and care arrangement is to be provided privately;
 - (iii) the patient attains the age of 18;
 - (iv) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 18.

Termination of a continuing care arrangement or a capitation arrangement

10.—(1) Subject to sub-paragraphs (4) and (7) and paragraph 11, a contractor who wishes to terminate a continuing care arrangement before it terminates in accordance with paragraph 8, or a capitation arrangement before it terminates in accordance with paragraph 9, shall give to the patient not less than 3 months' notice in writing of the termination of the arrangement.

(2) Where a contractor gives notice under sub-paragraph (1), it shall use its best endeavours to complete satisfactorily, or secure the satisfactory completion before the termination of the arrangement of, any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice and any further treatment that may be necessary to secure and maintain the oral health of the patient.

(3) Where a contractor gives notice under sub-paragraph (1), it shall at the same time advise the Health Board in writing that such notice has been given, and give details to the Health Board of any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice including any arrangements made for completion of that care and treatment.

(4) Subject to sub-paragraph (7) and paragraph 11, where a contractor wishes a continuing care arrangement or a capitation arrangement to be terminated on less than 3 months' notice, it shall apply in writing to the Health Board—

- (a) asking for the Health Board's consent to the contractor terminating the arrangement;
- (b) setting out the reasons why it wishes the arrangement to be terminated; and
- (c) giving details of any care and treatment which it has been agreed the patient will receive and which is outstanding including any arrangements made for completion of that care and treatment.

(5) Where a contractor applies to the Health Board under sub-paragraph (4), the Health Board may, after considering any representations made by the patient, consent to the termination of the arrangement on such date and on such terms as to completion of any outstanding care and treatment mentioned in sub-paragraph (4)(c) as it thinks fit, save that, where an arrangement is terminated because the patient has refused to pay the NHS charge, the contractor shall not be obliged to complete that care and treatment.

(6) A Health Board which consents to the termination of an arrangement under sub-paragraph (5) shall so inform the patient, contractor and the SDPB in writing that the arrangement has been terminated with the Health Board's consent.

(7) Where—

- (a) under section 5 (approval of pilot schemes) of the 1997 Act the Scottish Ministers have approved a proposal for a pilot scheme under which personal dental services are to be provided, or such a proposal has been subsequently varied with agreement of the Scottish Ministers or, as the case may be, in a manner authorised by directions given by the Scottish Ministers under section 6 (making of pilot schemes) of that Act; and
- (b) under the proposal (or the varied proposal) a patient would be treated under the pilot scheme and not under a continuing care arrangement or a capitation arrangement,

the pilot scheme provider shall give to him such notice of the termination of the arrangement as is required under the pilot scheme.

Violent patients

11.—(1) Where—

- (a) a person, with whom a contractor has a continuing care arrangement or a capitation arrangement, has committed an act of violence against any dentist, dental care professional

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or any other person employed or engaged by the contractor or has behaved in such a way that such a person has feared for his or her safety; and

(b) the contractor or a person on the contractor's behalf has reported the incident to the police, the contractor may notify the Health Board that the contractor wishes the arrangement to be terminated immediately.

(2) Notification under sub-paragraph (1) may be given by any means including telephone, e-mail or fax, but if not given in writing shall subsequently be confirmed in writing before the end of the period of seven days beginning with the date of the notification under sub-paragraph (1) (and, for this purpose a faxed or e-mailed confirmation is not a written one).

(3) The time at which the contractor notifies the Health Board shall be the time at which the contractor makes the telephone call or otherwise sends or delivers the notification to the Health Board.

(4) Where pursuant to this paragraph a contractor has notified the Health Board that it wishes a continuing care arrangement or a capitation arrangement with any person to be terminated immediately, the Health Board shall take all reasonable steps to inform the person concerned.

Referral to another contractor or to a hospital or other service

12.—(1) Where a patient requires particular care and treatment under a continuing care arrangement or a capitation arrangement and the contractor with whom the patient has made the arrangement cannot provide the necessary facilities, experience or expertise to provide that care and treatment, it shall, if the patient agrees, refer the patient in accordance with sub-paragraph (2) for the provision of that care and treatment by another contractor under general dental services or personal dental services or by a hospital or other service provided under Part III of the Act.

(2) In referring a patient under sub-paragraph (1) to another contractor or to a hospital or other service for that care and treatment, the contractor shall—

(a) give details of—

(i) the oral condition of the patient and the reason for the referral; and

(ii) if relevant to the referral, details of the care and treatment the contractor has provided or intends to provide in order to secure and maintain the patient's oral health, to that other contractor or, as the case may be, that hospital or other service, either at the time of referral or as soon as practicable afterwards;

(b) include with those details a statement of the amount paid to the contractor by the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽⁴⁾ in respect of any care and treatment already provided in the course of the care and treatment during which the referral is made; and

(c) indicate in the claim for remuneration in respect of that course of care and treatment that the patient has been referred for the required care and treatment.

Referral to dental students

13.—(1) Where the conditions laid down in sub-paragraph (2) are met, and where a dentist considers it suitable to do so, the dentist may refer a patient for care and treatment by a dental student.

(2) The conditions referred to in sub-paragraph (1) are—

(a) that the patient has been informed that the referral is for care and treatment by a dental student and the patient has consented to that referral; and

⁽⁴⁾ S.S.I. 2003/158, as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

- (b) that the dental student who will provide the care and treatment shall be a dental student under the supervision of a dentist.

Treatment on referral

14.—(1) Subject to sub-paragraphs (2) and (3), a contractor may accept a patient who has been referred to the contractor by another dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule for particular care and treatment.

(2) Subject to sub-paragraph (3) a contractor shall not accept a patient for orthodontic treatment unless that patient has been referred to the contractor for such treatment by a dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule.

(3) A contractor may only accept a patient who presents for orthodontic treatment without being referred under sub-paragraph (2) if the contractor has obtained the prior approval in writing of the SDPB to the effect that the SDPB is satisfied that there are exceptional circumstances which allow the patient to so present.

(4) Subject to paragraph (5) a contractor who accepts a patient for treatment under sub-paragraphs (1), (2) or (3) shall—

- (a) at the time at which the contractor accepts the patient, provide the patient with a form of acceptance supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) the name of the patient;
 - (ii) the name of the dentist who will carry out the care and treatment;
 - (iii) particulars of the places where the patient will receive care and treatment; and
 - (iv) the telephone number at which the dentist, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
 - (i) details of the care and treatment which, in the opinion of the dentist, at the date of that examination, is necessary for the dentist to provide having regard to the reason for the referral;
 - (ii) the dentist's estimate of the NHS charge (if any) in respect of that care and treatment;
 - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where, in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) of this sub-paragraph needs to be varied, the dentist provides the patient with a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub-paragraph;
- (d) complete the care and treatment, which is referred to in paragraph (b)(i) of this sub-paragraph;
- (e) until such time as the treatment on referral has been completed, provide the patient with emergency cover in accordance with paragraph 6(1) and (2), but only to the extent that the patient requires prompt care and treatment in relation to the particular care and treatment for which the patient has been referred or for which the patient has presented; and
- (f) repair or replace in accordance with sub-paragraph (2) any restoration which requires repair or replacement.

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(5) Subject to sub-paragraphs (3) and (4), a contractor shall in the course of treatment on referral repair or replace at no charge to the patient any of the following restorations, namely, filling, root filling, inlay, pinlay or crown which has to be repaired or replaced and which was provided by or on behalf of the contractor in the course of the treatment on referral.

(6) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (5) where—

- (a) within 12 months after the date on which the restoration was provided—
 - (i) a dentist has provided private treatment; or
 - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,
 on the tooth in respect of which the restoration was provided;
- (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with sub-paragraph (4)(b) or (c) and on the patient record that—
 - (i) the restoration was intended to be temporary in nature; or
 - (ii) in the dentist's opinion, a different form of restoration was more appropriate but, notwithstanding that advice, the patient insisted on the restoration which was provided;
- (c) in the dentist's opinion, the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
- (d) the repair or replacement is required as a result of trauma.

(7) The obligation to repair or replace any restoration under sub-paragraph (5) shall cease 12 months after the date on which the restoration was provided or when the treatment on referral has been completed, whichever is the sooner.

(8) Sub-paragraph (4)(b) shall not apply where a patient is referred to a dentist for examination and advice only.

Inability of contractor to complete care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral

15. If, owing to any cause beyond the contractor's control, or to the contractor taking up the performance of personal dental services in connection with a pilot scheme, the contractor is unable to complete any care and treatment which has been commenced under a continuing care arrangement or a capitation arrangement or treatment on referral, the contractor shall forthwith notify the SDPB in writing of the extent of the care and treatment or treatment on referral provided and of the reason for the contractor's inability to complete the remainder.

Care and treatment summaries

16. Where a patient who has been receiving care and treatment under a continuing care arrangement or a capitation arrangement requests the contractor to provide the patient with a summary of the care and treatment which the patient has received under that arrangement because the patient intends to enter into such an arrangement with another contractor, the contractor shall provide such a summary as the contractor considers appropriate (including details of any care and treatment which could not be easily observed on a visual examination), to the patient on a form supplied by the Health Board, or a form to like effect, within 28 days of the request.

Mixing of general dental services and private care and treatment

17.—(1) Subject to sub-paragraph (3), a contractor may, with the consent of the patient provide privately any part of the care and treatment—

- (a) necessary under a continuing care arrangement or a capitation arrangement to secure and maintain the oral health of a patient; or
- (b) to be provided as part of treatment on referral.

(2) A contractor or a dentist assisting that contractor in the provision of general dental services shall not, with a view to obtaining the agreement of a patient to undergo care and treatment privately—

- (a) advise a patient falsely that the care and treatment which is necessary in the patient's case—
 - (i) under the continuing care arrangement or capitation arrangement with a contractor to secure and maintain oral health; or
 - (ii) having regard to the reason given for referral, is not available from that contractor under general dental services; or
- (b) seek to mislead the patient about the quality of care and treatment available under general dental services.

(3) Sub-paragraph (1) shall not apply—

- (a) where the treatment necessary to secure oral health relates to a single tooth, in which case the treatment shall be provided wholly under general dental services or wholly privately;
- (b) in respect of orthodontic care and treatment in which case—
 - (i) the assessment, diagnosis and planning of treatment in connection with the orthodontic care and treatment shall be provided wholly under general dental services or wholly privately; and
 - (ii) the orthodontic treatment shall be provided wholly under general dental services or wholly privately;
- (c) to the provision privately of general anaesthesia in association with any care and treatment provided under general dental services.

PART III

OCCASIONAL TREATMENT

Occasional treatment

18.—(1) Whether or not a patient has entered into a continuing care arrangement or capitation arrangement with a contractor, another contractor who is not acting on behalf of that contractor may provide items listed in sub-paragraph (2) as occasional treatment.

(2) For the purposes of sub-paragraph (1) the listed items are—

- (a) assessment of, and the giving of advice to, a patient;
- (b) the issuing of a prescription except in connection with the items of treatment specified in paragraphs (e), (h) and (i) below;
- (c) a radiological examination and radiographic report except in connection with the items of treatment specified in paragraph (i) below;
- (d) the dressing of deciduous or permanent teeth and other palliative treatment;

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- (e) the repair and refixing of inlays, crowns and bridges, including, where immediately necessary, the provision of temporary crowns;
- (f) the extraction of deciduous or permanent teeth;
- (g) the provision of post-operative care;
- (h) the provision of sedation;
- (i) the replacement, repair or alterations of dentures or other dental appliances;
- (j) urgent treatment for acute conditions of the gingivae or oral mucosa, including treatment for pericoronitis or for ulcers and herpetic lesions, and any necessary oral hygiene instruction in connection with such treatment;
- (k) any treatment immediately necessary as a result of trauma;
- (l) domiciliary visits and recalled attendance;
- (m) conservative treatment of permanent or retained deciduous teeth by way of filling or root fillings; and
- (n) in respect of patients aged under 18, conservative treatment of no more than 2 deciduous teeth.

(3) Where the contractor, due to any cause beyond the control of the contractor is unable to complete a course of occasional treatment, the contractor shall forthwith notify the SDPB in writing of the extent of the occasional treatment provided and the reason the contractor is unable to complete the remainder of the treatment.

(4) Subject to sub-paragraphs (5) and (6), where a contractor has provided conservative treatment by way of any filling or root filling in accordance with sub-paragraph (2)(m), the contractor shall repair or replace the filling in question at no charge to the patient.

(5) A contractor shall not be under an obligation to repair or replace any filling under sub-paragraph (2)(m) where—

- (a) within 12 months after the date on which the filling was provided—
 - (i) a dentist has provided private treatment; or
 - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,on the tooth in respect of which the filling was provided;
- (b) the dentist who carried out the treatment advised the patient at the time of the filling and indicated on the patient record—
 - (i) that the filling was intended to be temporary in nature; or
 - (ii) that in the dentist's opinion a different form of filling was more appropriate but, notwithstanding that advice, the patient insisted on the filling which was provided;
- (c) in the dentist's opinion, the condition of the tooth in respect of which the filling was provided is such that the filling cannot satisfactorily be repaired or replaced and different treatment is now required; or
- (d) the repair or replacement is required as a result of trauma.

(6) The obligation to repair or replace any filling under sub-paragraph (2)(m) shall cease 12 months after the date on which the filling was provided.

Referral for occasional treatment

19.—(1) Where a patient requires any occasional treatment and the contractor from whom the patient requests such treatment does not have the necessary facilities, experience or expertise to provide that occasional treatment, the contractor shall, if the patient agrees, refer the patient

in accordance with sub-paragraph (2) for the provision of that occasional treatment by another contractor under general dental services or personal dental services or by a hospital or other service provided under Part III of the Act.

(2) In referring a patient under sub-paragraph (1) to another contractor or to a hospital or other service for that occasional treatment, the contractor shall—

- (a) give details of the oral condition of the patient and the reason for the referral to that other contractor or, as the case may be, that hospital or other service, either at the time of referral or as soon as practicable afterwards;
- (b) include with those details a statement of the amount paid to the contractor by the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽⁵⁾ in respect of any occasional treatment already provided in the course of the occasional treatment during which the referral is made; and
- (c) indicate in the contractor's claim for remuneration in respect of that course of occasional treatment that the patient has been referred for the required occasional treatment.

(3) Subject to sub-paragraph (4) a contractor shall only accept a patient referred for occasional treatment where the patient has been referred to the contractor under sub-paragraph (1) and shall provide only the occasional treatment which, in the opinion of the dentist, it is necessary for the contractor to provide having regard to the reason for the referral.

(4) A contractor may accept a patient who presents for the occasional treatment listed in paragraph 18(2)(m) only, providing the prior approval in writing of the SDPB has been obtained to the effect that the SDPB is satisfied that there are exceptional circumstances which allow the patient to present for that treatment.

PART IV

ADDITIONAL TERMS OF SERVICE FOR ALL DENTISTS

Remuneration

20.—(1) Subject to regulation 22 (statement of dental remuneration) and this Schedule, a dentist or contractor shall not—

- (a) claim a fee or accept payment of any fee from the Agency for any treatment provided otherwise than under general dental services;
- (b) claim a fee or accept payment of any fee from the patient for any treatment provided under general dental services, for which a claim has been or will be submitted to the SDPB, except such fee as may be prescribed by the National Health Service (Dental Charges) (Scotland) Regulations 2003;
- (c) claim a fee or accept payment of any fee from the Agency for any treatment provided under general dental services for which a fee has already been claimed under general dental services;
- (d) claim a fee or accept payment of any fee for any treatment which has not been provided, (except such a fee as may be prescribed by regulation 6(3)(a) of the National Health Service (Dental Charges) (Scotland) Regulations 2003;
- (e) claim, solicit or accept payment of any fee or other consideration or offer or promise any inducement as a prerequisite to providing, or agreeing to provide, or assisting or agreeing to assist with the provision of, general dental services, except such fee or other

(5) [S.S.I. 2003/158](#), as amended by [S.S.I. 2004/101](#), [2005/121](#) and [2006/131](#).

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consideration as may be prescribed in the Statement of Dental Remuneration, the National Health Service (Dental Charges) (Scotland) Regulations 2003 or the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989(6);

- (f) claim a fee or accept payment of any fee from the Agency for any treatment provided to any person under a pilot scheme for personal dental services; or
 - (g) make the provision of general dental services to any person subject to any condition other than those specified in these Regulations, permitted in the National Health Service (Dental Charges) (Scotland) Regulations 2003 or otherwise required by law.
- (2) Any claim for a fee or other remuneration for the provision of general dental services shall be submitted in accordance with either paragraph (a) or (b):
- (a) the claim shall be submitted by post or by hand and shall be signed—
 - (i) if the care and treatment was provided on behalf of a contractor by a dentist who is also a contractor, by that dentist, who shall also give the name of the contractor on whose behalf the care and treatment was provided;
 - (ii) if the care and treatment was provided on the contractor's behalf by a dentist whose name is included in the second part of the dental list, by that dentist, who shall also give the name of the contractor on whose behalf the care and treatment was provided; and
 - (iii) in other cases where the care and treatment was provided by a contractor who is a dentist, by the contractor; or
 - (b) the claim shall be submitted by electronic communication (through a computer or similar device) and—
 - (i) if the care and treatment was provided on behalf of a contractor by a dentist who is also a contractor, the claim must contain the PIN allocated to that dentist;
 - (ii) if the care and treatment was provided on the contractor's behalf by a dentist whose name is included in the second part of the dental list, the claim must contain the PIN allocated to that dentist; and
 - (iii) where the care and treatment was provided by a contractor who is a dentist, the claim must contain the PIN allocated to that contractor.

(3) When submitting a claim by way of electronic communication under sub-paragraph (2)(b) a person shall make use only of such computer programme as the SDPB has approved as suitable for that purpose.

(4) In this paragraph a "PIN" shall mean the personal identification number allocated to the contractor (or in the case of an assistant, the identification number allocated to the contractor for the assistants use) by the SPDB.

Surveys

21. A Health Board may conduct or commission surveys or other research relating to the provision of general dental services at no less than six monthly intervals and, when requested to do so by the Health Board, a contractor shall within a timescale specified by the Health Board, provide the Health Board with information of the provision of general dental services for the purpose of such surveys or other research.

(6) S.I. 1989/364 as amended by S.I. 1992/411, 1994/1770 and 1998/251 and S.S.I. 2004/369, 2005/572, 2005/445, 2006/141 and 2008/290, and 2009/177.

Standards of care

22.—(1) In providing, or assisting with the provision of, care and treatment under general dental services a dentist shall—

- (a) employ a proper degree of skill and attention;
- (b) save as is provided in paragraphs 12, 13, 19, 23, 33 and 44, give all treatment personally;
- (c) use only materials which are suitable for the purpose for which they are used;
- (d) except in the case of occasional treatment and treatment on referral, provide or assist with the provision of care and treatment to such extent and at such intervals as may be necessary to secure and maintain the oral health of the patient; and
- (e) not provide or assist with the provision of care and treatment in excess of that which is reasonably necessary to secure and maintain the oral health of the patient.

(2) A body corporate, in undertaking to provide general dental services, shall ensure that any dentist employed or engaged by it to treat patients shall—

- (a) employ a proper degree of skill and attention;
- (b) save as is provided in paragraphs 12, 13, 19, 23, 33 and 44, give all treatment personally;
- (c) use only materials which are suitable for the purpose for which they are used;
- (d) except in the case of occasional treatment and treatment on referral, provide or assist with the provision of care and treatment to such extent and at such intervals as may be necessary to secure and maintain the oral health of the patient;
- (e) not provide or assist with the provision of care and treatment in excess of that which is reasonably necessary to secure and maintain the oral health of the patient; and
- (f) comply with the provisions of the terms of service.

Sedation

23.—(1) Where a dentist undertakes, in the course of providing or assisting with the provision of general dental services, any procedure for which sedation of the patient is necessary the dentist shall remain with the patient and arrange for another person with suitable training and experience also to remain with the patient throughout the procedure.

(2) In this paragraph “a person with suitable training and experience” means a person who has received such training and experience as to be capable of assisting the dentist in monitoring the clinical condition of the patient and in the event of an emergency.

Supply of drugs

24.—(1) A dentist may supply to a patient such listed drugs as are required for immediate use before a supply can otherwise be obtained under paragraph 25.

(2) A dentist may personally administer to a patient any drug required for the care and treatment of that patient.

Issue of prescription forms

25.—(1) A dentist shall order such listed drugs (other than those supplied under paragraph 24) as are needed for the care and treatment of any patient for whom the dentist is providing or assisting with the provision of general dental services by issuing to the patient a prescription form.

(2) The prescription form—

- (a) shall be signed by the dentist;

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- (b) shall not refer to any previous prescription;
 - (c) shall not be issued to persons other than patients,
- and a separate prescription form shall be issued for each patient.

Domiciliary visits

26.—(1) A contractor may, where requested to do so by or on behalf of a patient who is unable to leave home unaccompanied because of physical or mental illness or disability, agree to provide general dental services at a place at which the patient normally resides.

(2) A contractor shall, where requested to do so by or on behalf of a patient who is unable to leave home unaccompanied because of physical or mental illness or disability, provide general dental services at a place at which the patient normally resides provided that such a place is not more than five miles from the contractor's practice premises, or in the case of a contractor who provides general dental services at a mobile surgery only from any of the places regularly visited by the contractor.

Records

27.—(1) A contractor shall keep a complete, accurate and up to date record in respect of—

- (a) the care and treatment given to each patient under a continuing care arrangement or a capitation arrangement and the fact of referral under such an arrangement under paragraph 12 or 13;
- (b) treatment on referral;
- (c) occasional treatment;

in the patient record and shall include with that record details of any private care and treatment (to the extent that it is provided with care and treatment under general dental services for the purpose of securing and maintaining oral health), any practice record form and all radiographs, photographs and study models (being models in respect of treatment) taken or obtained by or on behalf of the contractor as part of the care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral or occasional treatment.

(2) The records, forms, radiographs, photographs and study models referred to in sub-paragraph (1) shall be retained for a period of 2 years by the contractor after completion of any course of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral or occasional treatment to which they relate.

(3) The contractor shall, during the period in which it holds any records, forms, radiographs, photographs and study models referred to in sub-paragraph (1)—

- (i) produce them on request to the dental officer, or any authorised officer of the Agency or the Health Board; or
- (ii) send them to the SDPB, the dental officer, or any authorised officer of the Agency, or the Health Board within 14 days of being required to do so by one of those persons.

(4) A contractor may keep the records (other than the practice record form) referred to in sub-paragraph (1) and the form recording recalled attendance in accordance with paragraph 31 in computerised form.

(5) Nothing in sub-paragraph (1) shall be taken as removing any rights of property which the contractor may have in relation to the records, radiographs, photographs and study models referred to in that sub-paragraph.

Prior approval of care and treatment

28.—(1) Subject to sub-paragraphs (6), (7) and (10), where care and treatment requires prior approval, from the SDPB, the dentist—

- (a) shall submit, without unreasonable delay, to the SDPB for approval an estimate of the whole of the care and treatment, including details of any part of that care and treatment to be provided privately; and
- (b) other than in an emergency, shall not, until the dentist receives approval from the SDPB, proceed—
 - (i) where prior approval is required by virtue of Part I of Schedule 4, with any item of treatment referred to in that Part; or
 - (ii) where prior approval is required by virtue of Part II of Schedule 4, with any care and treatment mentioned in the estimate.

(2) Subject to sub-paragraphs (6), (7) and (10), where in the course of providing any care and treatment to which, at its outset, sub-paragraph (1) does not apply, a dentist is of the opinion that a variation of or an addition to such care and treatment is necessary, and by reason of the variation or addition the care and treatment includes or becomes treatment requiring prior approval, the contractor—

- (a) shall submit, without unreasonable delay, to the SDPB for approval an estimate of the whole of the care and treatment (including that which the dentist has commenced) together with details of any part of that care and treatment provided or to be provided privately; and
- (b) other than in an emergency, shall not, until the dentist receives approval from the SDPB, proceed—
 - (i) where prior approval is required by virtue of Part I of Schedule 4, with any item of treatment referred to in that Part; or
 - (ii) where prior approval is required by virtue of Part II of Schedule 4, with any care and treatment mentioned in the estimate.

(3) Subject to sub-paragraphs (6), (7) and (10) where a dentist has obtained the approval from the SDPB required by sub-paragraph (1) because the care and treatment is or includes an item of treatment referred to in Part I of Schedule 4, and in the opinion of the dentist carrying out the treatment a variation of or addition to such care and treatment is necessary, which variation or addition—

- (a) is or includes an item of treatment referred to in Part I of Schedule 4; or
- (b) has the effect that the care and treatment then falls within Part II of Schedule 4,

the dentist shall re-submit, without unreasonable delay, the estimate to the SDPB for approval, including details of any part of that care and treatment provided or to be provided privately.

(4) Subject to sub-paragraphs (6), (7) and (10), where a dentist has obtained approval from the SDPB in accordance with sub-paragraph (1) because prior approval is required by virtue of Part II of Schedule 4, and in the opinion of the dentist carrying out the treatment a variation of or addition to such care and treatment is necessary, the dentist shall re-submit, without unreasonable delay, the estimate to the SDPB for approval together with details of any part of that care and treatment provided or to be provided privately.

(5) Where the SDPB receives an estimate under sub-paragraph (3) or (4) it may withdraw or vary its original approval insofar as the care and treatment has not yet been carried out in accordance with such approval, or add to its original approval, and, other than in an emergency, the dentist shall not, until he receives approval from the SDPB, proceed—

- (a) in any case falling within sub-paragraph (3)(a), with any item of treatment referred to in Part I of Schedule 4; or

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(b) in any other case, with any of the care and treatment mentioned in the estimate.

(6) Sub-paragraphs (1), (2), (3) and (4) shall not apply where the care and treatment to be provided under a capitation arrangement is care and treatment for which a contractor is remunerated in accordance with Section X (treatment under capitation) of Determination I of the Statement of Dental Remuneration and for which the contractor receives no remuneration other than a capitation payment.

(7) A dentist may proceed immediately with the care and treatment of merchant seamen, deep sea fishermen, or oil rig workers, about to go to sea for a period in excess of four weeks, or persons about to go aboard for a period in excess of four weeks, and in such event shall send an estimate to the SDPB for approval within 7 days of the commencement of the care and treatment.

(8) Where, in consequence of any proceeding under the National Health Service (Discipline Committees) (Scotland) Regulations 2006(7) in respect of general dental services provided in the area of any Health Board, a dentist is required for any period to submit all estimates to the SDPB for approval, in respect of all treatment or any specified description of treatment, the contractor or dentist—

- (a) shall submit, without unreasonable delay, all such estimates (whether relating to treatment to be provided in that or any other area), to the SDPB for approval; and
- (b) shall not proceed with such treatment until the dentist receives approval from the SDPB, except that the dentist may in the course of any single consultation proceed with treatment consisting of one examination and the taking of no more than two small radiographs, each of a size not exceeding 16 square centimetres, or treatment in an emergency.

(9) Where in consequence of a direction given by the SDPB under regulation 27(2) a dentist is directed, for any period, to submit all estimates to the SDPB for approval in respect of treatment or a description of treatment specified in the direction the dentist—

- (a) shall submit, without unreasonable delay, all such estimates (relating to treatment in the area of any Health Board) to the SDPB for approval; and
- (b) shall not proceed with such treatment until the dentist receives approval from the SDPB, except that the dentist may in the course of any single consultation proceed with treatment consisting of one examination and the taking of no more than two small radiographs, each of a size not exceeding 16 square centimetres, or treatment following trauma or in an emergency.

(10) Nothing in this paragraph shall prevent a dentist or contractor carrying out any care and treatment privately.

Completion of estimate

29.—(1) Subject to sub-paragraphs (2) and (3), when submitting an estimate to the SDPB for approval in accordance with paragraphs 28(1), (2), (3), (4), (8) or (9), a dentist shall in all cases, in addition to the information specified in those sub paragraphs, provide to the SDPB the following information—

- (a) the dentist's name and address and the number by which the dentist's arrangement with the Health Board is identified;
- (b) the patient's name and address and date of birth; and
- (c) details of the care and treatment proposed and the reasons why the dentist considers such care and treatment is necessary.

(7) [S.S.I. 2006/330](#), amended by [S.S.I. 2009/183](#) and [308](#).

(2) A dentist when submitting an estimate to the SDPB for approval as mentioned in sub paragraph (1) may, by arrangement with the SDPB, use a computer to submit that estimate to the SDPB.

(3) A dentist who, in accordance with sub paragraph (2), uses a computer to submit an estimate to the SDPB shall—

- (a) at the appropriate time secure the completion, so far as applicable, by the patient or by any person acting on behalf of the patient, of the practice record form;
- (b) use only such computer programme as the SDPB has approved as suitable for the purpose; and
- (c) include with that estimate—
 - (i) all the information specified in sub paragraph (1)(a) to (c) except the dentist's name and address; and
 - (ii) the personal identification number allocated to the dentist by the SDPB for that purpose.

Completion of claim forms

30.—(1) Subject to sub-paragraph (2), where a person declares that that person or a person for whom that person is responsible does not have to pay the charges prescribed by the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽⁸⁾ by virtue of either—

- (a) entitlement to exemption under paragraph 2(4) or 3(4) of Schedule 11 to the Act; or
- (b) entitlement to remission of such charges under regulation 3 or 5 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003⁽⁹⁾,

the contractor shall ask that person to produce satisfactory evidence in support of that declaration and where that person does not produce such evidence the contractor shall record that fact in the form claiming remuneration for the treatment of that person or the person for whom that person is responsible.

(2) Where, at the time of the declaration there is already available to the contractor satisfactory evidence of an entitlement to exemption from the charges on the grounds that the person in respect of whom the declaration is made is under 18 years of age, the obligations on the contractor specified in sub-paragraph (1) shall not apply.

(3) The contractor may appoint a member of the contractor's staff to undertake the task set out in sub-paragraph (1) on the contractor's behalf, and where the contractor does so the contractor shall ensure that that staff member is given sufficient instruction to perform that task.

Recalled attendance

31. Where a dentist is recalled to the practice premises at a time when the dentist does not normally provide or assist in the provision of general dental services, in order to provide treatment in an emergency, the dentist shall, on each occasion the dentist does so, at the time of that recalled attendance—

- (a) complete a form supplied by the Health Board for the purpose of supporting the dentist's claim to an allowance for that recalled attendance; and
- (b) obtain the signature on that form of the patient who the dentist has been recalled to treat, or of a person acting on behalf of that patient.

⁽⁸⁾ S.S.I. 2003/158, as amended by 2004/101, 2005/121 and 2006/131.

⁽⁹⁾ S.S.I. 2003/460, as amended by 2004/102.

Completion of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral

32.—(1) Subject to sub-paragraphs (2) and (4), the contractor shall complete within a reasonable time any course of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral.

(2) Where the patient requires dentures, or new dentures, in consequence of treatment provided by the contractor involving the extraction of one or more teeth, the contractor shall provide such dentures within 12 months of the date of the relevant extraction or, as the case may be, the later or last such extraction.

(3) Insofar as any treatment relates to the provision of dentures, it shall not be regarded as completed unless the dentures have been delivered to, and remain in the possession of, the patient.

(4) A contractor shall not be regarded as having failed to comply with sub-paragraphs (1) or (2) by reason of any delay in completing treatment where the Board is satisfied that the delay is due to the failure of the patient to attend for treatment or that there is some other sufficient reason for the delay.

(5) Where a contractor, or a dentist assisting in the provision of general dental services—

(a) has been notified that a patient has been requested to submit for examination by a dental officer; and

(b) has not been notified that the examination has been carried out or cancelled,

the contractor or dentist (as the case may be) shall not, otherwise than in an emergency, provide or assist with the provision of any care and treatment to that patient and shall take all reasonable steps to facilitate the examination.

(6) Where a contractor, or a dentist assisting in the provision of general dental services—

(a) has been notified that a dental discipline committee will investigate a reference relating to the provision of general dental services by the dentist or contractor (as the case may be) to a patient; and

(b) has not been notified—

(i) that the investigation has been completed; or

(ii) that such committee has no objection,

the contractor or dentist (as the case may be) shall not, other than in an emergency, provide or assist with the provision of any care and treatment to that patient and shall take all reasonable steps to facilitate the investigation.

(7) Nothing in this paragraph shall prevent a dentist or contractor carrying out any care and treatment privately.

Dental care professionals

33. A dentist may in the provision of general dental services arrange for care and treatment to be given by dental care professionals in accordance with the provisions of the Dentists Act 1984, and any regulations made under it and shall ensure that such care and treatment is properly completed.

Postgraduate education

34. A dentist shall in the provision or assistance with the provision of general dental services take reasonable steps to develop professional knowledge and skills through activities undertaken with a view to maintaining an up-to-date knowledge of dental science and practice.

Notices

35. A contractor shall display in a prominent position at the practice premises such information as the Health Board or the Agency may issue.

Complaints

36.—(1) Subject to sub-paragraph (2), a contractor shall establish and operate, in accordance with this paragraph, a procedure (in this paragraph and in paragraph 37 referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of the contractor’s patients and former patients.

(2) The practice based complaints procedure to be established by a contractor may be such that it also deals with complaints made in relation to one or more dentists or other persons employed or engaged by the contractor.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the provision or assistance with the provision of general dental services and within the responsibility or control of—

- (a) the contractor;
- (b) where the contractor is a body corporate, any of its directors or former directors;
- (c) any dentist either employed or engaged by the contractor;
- (d) a former partner of the contractor;
- (e) an employee of the dentist other than one falling within paragraph (c);

and in this paragraph and paragraph 37, references to complaints are to complaints falling within this sub-paragraph.

(4) A complaint may be made on behalf of a patient or former patient with the patient’s consent, or—

- (a) where the patient is a child under 16—
 - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child; or
 - (ii) in the care of an authority under Part II of the Social Work (Scotland) Act 1968⁽¹⁰⁾ or in the care of a voluntary organisation, by that authority or organisation; or
- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in that patient’s welfare.

(5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in the patient’s welfare or, where the patient was as described in sub-paragraph (4)(a)(ii), by the authority or voluntary organisation.

(6) A practice based complaints procedure shall comply with the following requirements:—

- (a) the contractor shall specify a person (who need not be connected with the contractor’s practice and who, in the case of an individual, may be specified by job title) to be responsible for receiving and investigating all complaints;
- (b) all complaints shall be—

⁽¹⁰⁾ 1968 c.49; Part II of the Social Work (Scotland) Act 1968 was extended with modification by the Guardianship Act 1973 (c.29) and was amended by the Health Services and Public Health Act 1968 (c.46), the National Health Service (Scotland) Act 1972 (c.58), the Health and Social Service and Social Security Adjudications Act 1983 (c.41), the Foster Children (Scotland) Act 1984 (c.56), the National Health Services and Community Care Act 1990 (c.19), the Children (Scotland) Act 1995 (c.36), the Community Care (Direct Payments) Act 1996 (c.30), the Immigration and Asylum Act 1999 (c.33), the Community Care and Health (Scotland) Act 2002, (asp 5), the Criminal Justice (Scotland) Act 2003, (asp 7), the Management of Offenders etc. (Scotland) Act 2005, (asp 14), and the Adult Support and Protection (Scotland) Act 2007, (asp 10).

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- (i) recorded in writing;
 - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in paragraph (a), or where that is not possible, as soon as reasonably practicable; and
 - (iii) properly investigated;
 - (c) within the period of 20 days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in paragraph (a), or where that is not possible, as soon as reasonably practicable, the complainant shall be given a written summary of the investigation and its conclusions;
 - (d) where the investigation of the complaint requires consideration of the patient's dental records, the person specified in paragraph (a) shall inform the patient or person acting on the patient's behalf if the investigation will involve disclosure of information contained in those records to a person other than the contractor or a partner, deputy or an employee of the contractor and obtain the consent of the patient or the person acting on the patient's behalf to such disclosure; and
 - (e) the contractor shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records shall be kept separate from patients' dental records.
- (7) A contractor shall inform the contractor's patients about the practice based complaints procedure which it operates and give the name (or title) and address of the person specified in sub-paragraph (6)(a).

Co-operation and investigation

37.—(1) A contractor or any dentist who assists the contractor in the provision of general dental services shall cooperate with any investigation of a complaint by the Health Board in accordance with the procedures which it operates in accordance with directions given under section 2(5) of the Act⁽¹¹⁾, whether the investigation follows one under the practice based complaints procedure or not.

(2) The cooperation required by sub-paragraph (1) includes—

- (a) answering questions reasonably put to the contractor or dentist by the Health Board;
- (b) providing any information relating to the complaint reasonably required by the Health Board; and
- (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the presence of a contractor or any dentist who assists the contractor in the provision of general dental services at the meeting is reasonably required by the Health Board.

Returns re complaints

38.—(1) A contractor whose name is included in the dental list shall provide to the Health Board by 30th June each year a return stating the number of complaints received in accordance with paragraph 36 in respect of the period of 12 months ending on 31st March of that year.

(2) In the case of a dentist who practises in partnership with one or more other dentists whose names are included in the dental list, the information referred to in sub-paragraph (1) shall be provided in respect of the partnership as a whole instead of by dentists in the partnership individually.

⁽¹¹⁾ Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19), Schedule 9, paragraph 19(1).

Professional indemnity

39. A contractor shall, if asked in writing to do so by the Health Board on whose dental list the contractor's name is included—

- (a) state whether the contractor is indemnified against claims relating to the business of dentistry carried out by the contractor, and relating to the practise of dentistry by any dentist, assistant, deputy and other dental care professional whose work the contractor directs or who is employed or engaged by the contractor;
- (b) if the contractor is so indemnified, provide documentary evidence to that effect.

Clinical audit activities

40.—(1) Subject to the remainder of this paragraph, in the relevant period a dentist on the dental list shall—

- (a) undertake at least 15 hours of clinical audit activities; and,
- (b) where that dentist is of a type described in subparagraph (7), undertake at least 5 hours of clinical audit activities within the first year of the relevant period.

(2) A contractor must take reasonable steps to ensure that any dentist employed or engaged by the contractor in the provision of general dental services shall—

- (a) undertake at least 15 hours of clinical audit activities during the relevant period; and,
- (b) where that dentist is of a type described in paragraph (7) undertake at least 5 hours of clinical audit activities within the first year of that relevant period.

(3) A dentist shall produce such evidence which demonstrates compliance with that dentist's duties under subparagraph (1) as the Health Board or NHS Education for Scotland (as the case may be) requires.

(4) In this paragraph—

“clinical audit activities” means activities (approved by NHS Education for Scotland or the Health Board) which:

- (a) involve the systematic and critical analysis of the quality of dental care provided by the dentist, (including the processes used by that dentist for diagnosis, intervention and treatment and use of resources) and;
- (b) have a defined start and end date, no more than 6 months apart;

“the relevant period” means the three year period from 1st August 2010 until 31st July 2013 (inclusive) and each successive period of three years thereafter.

(5) Notwithstanding subparagraph (1) where a dentist joins a dental list after the first day of a relevant period, that dentist shall, from 1st August of the calendar year immediately after that dentist joins, undertake such number of hours of clinical audit activities as are proportionate (which may be zero) to the proportion of the relevant period that remains from that 1st August to the end of that relevant period.

(6) In the operation of subparagraph (5) where that dentist is of a type described in subparagraph (7), that dentist shall, when undertaking such number of hours of clinical audit activities as are proportionate to the remainder of the relevant period, ensure that at least 5 hours of clinical audit activity are undertaken within a year from 1st August of the calendar year immediately after that dentist joins.

(7) The type of dentist described is a dentist who has never been included in sub-part A of a dental list kept under these regulations, or any earlier form of such a list kept under any earlier similar enactment.

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PART V

ADDITIONAL TERMS OF SERVICE FOR DENTISTS OTHER THAN SALARIED DENTISTS

Patient information leaflets

41.—(1) Subject to sub-paragraph (4) a contractor shall compile and make available, to the Health Board (if it requires one) and to any person who may reasonably require one, a document providing information about the provision of general dental services at the contractor's practice premises (in this paragraph called "a patient information leaflet") which shall include the information specified in Schedule 5.

(2) A contractor shall make any amendments to the contractor's patient information leaflet which the contractor considers to be necessary to maintain its accuracy.

(3) A dentist who practises in partnership or under an associateship agreement with other dentists whose names are included in the first part of the dental list shall satisfy the requirements of this paragraph if the dentist makes available a patient information leaflet, compiled and, where appropriate, revised in accordance with sub-paragraphs (1) and (2), which relates to the partnership or associateship as a whole.

(4) The requirements of sub-paragraph (1) shall not apply to any contractor to the extent that the contractor provides general dental services only to persons detained in a prison or young offenders institution.

Premises and Equipment

42.—(1) Unless the contractor provides general dental services from a mobile surgery only, a contractor shall provide proper, sufficient and safe premises, equipment, instruments and procedures.

(2) A contractor who provides general dental services at a mobile surgery shall provide proper, sufficient and safe mobile surgery equipment, instruments and procedures.

(3) A dental surgery and a mobile surgery shall be furnished with suitable equipment and a contractor shall provide treatment with suitable instruments.

(4) A contractor shall at all reasonable times, on receipt of reasonable notice in writing, admit a dental officer or a person authorised by the Health Board for the purpose of inspecting any equipment or practice premises, dental surgery, mobile surgery or waiting-room under the contractor's control and reviewing the procedures and staff training.

Remuneration

43. The provisions of paragraph 20 shall not have effect in relation to any claim made by a contractor in respect of loss of remuneration resulting from the failure of a patient to keep an appointment for general dental services.

Deputies and assistants

44.—(1) Subject to the provisions of this paragraph, a dentist may arrange for care and treatment to be provided by a deputy or assistant.

(2) In the case of two or more dentists practising in partnership or as a principal and assistant, care and treatment may at any time be given by a partner or an assistant of the dentist who is responsible for the patient's treatment, if reasonable steps are taken to secure continuity of care and treatment.

(3) A contractor shall—

- (a) prior to employing any assistant, see evidence that that assistant is included on the second part of the dental list of the appropriate Health Board;
 - (b) notify the Health Board of the employment of an assistant within 7 days of the first day of such employment;
 - (c) forward to the Health Board such particulars concerning the assistant as the Health Board may reasonably require;
 - (d) on ceasing to employ an assistant, notify the Health Board within 7 days of the cessation of that employment.
- (4) A contractor who is a dentist shall not employ as an assistant any dentist whose name is included in sub-part A of the dental list and who has the same address as any of the contractor's own practice premises.
- (5) Where a contractor employs as an assistant a dentist who to the contractor's knowledge is subject to a requirement mentioned in paragraph 28(8) or (9) to submit estimates to the SDPB for prior approval in respect of treatment, the contractor shall not allow the dentist to carry out the treatment unless the prior approval of the SDPB has first been obtained.
- (6) If a contractor who is a dentist intends to be absent from the practice premises for more than 28 consecutive days the contractor shall notify the Health Board of—
- (a) the intended absence; and
 - (b) the name and address, if different to the practice premises, of the deputy or assistant (if any) responsible for providing or assisting with the provision of general dental services during the contractor's absence.
- (7) A contractor who is a dentist who intends to be or is absent from his practice premises for more than two months—
- (a) shall notify the Health Board in writing; and
 - (b) shall not employ an assistant for any period of absence in excess of two months without the consent of the Health Board.
- (8) Where a dentist whose name is included on the dental list and is employed, engaged or under any other contractual or legal arrangement or relationship with a body corporate, intends to be, or is, absent from the contractor's practice premises for more than two months, the body corporate shall—
- (a) notify the Health Board in writing;
 - (b) not employ a dentist whose name appears on the second part of the dental list for any period of absence in excess of two months without the consent of the Health Board.
- (9) A contractor shall not employ as a deputy or assistant for the purpose of the provision or assistance with this provision of general dental services any dentist who is disqualified, refused entry to a dental list or removed from any dental list or equivalent list, for as long as that remains the case.
- (10) A contractor shall not employ as a deputy or assistant for the purpose of the provision or assistance with the provision of general dental services any dentist who is suspended by direction of the Tribunal, a Health Board or equivalent body, for as long as that remains the case.
- (11) A deputy may provide general dental services at places or at times other than those arranged by the contractor for whom he is acting, due regard being had to the convenience of patients.
- (12) A deputy or assistant who issues a prescription form for listed drugs under paragraph 25 shall, in addition to signing his or her own name on such prescription form, insert on the form the name of the contractor for whom he or she is acting.
- (13) Where any care and treatment is given to a patient by an assistant, the assistant shall complete a claim for remuneration in respect of that care and treatment which—

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- (a) is separate from any claim form in respect of care and treatment given personally by a contractor who is a dentist; and
- (b) identifies the assistant by whom the care and treatment was given and his status as an assistant.

PART VI

ADDITIONAL TERMS OF SERVICE FOR SALARIED DENTISTS

Attendance

45.—(1) A salaried dentist shall attend at such premises on such days and at such hours as may be agreed with the Health Board.

(2) Except where paragraph 17 applies a salaried dentist shall not, without the permission of the Health Board, provide at such premises any care and treatment which is not part of general dental services.

Records

46.—(1) The records, radiographs, photographs and study models referred to in paragraph 27(1) shall be the property of the Health Board.

(2) The salaried dentist shall supply to the SDPB or the dental officer such information with regard to the care and treatment of patients as they may request within 7 days of the date of the request.

Drugs

47. Any drugs supplied under paragraph 24 shall be obtained by the salaried dentist in such manner as the Health Board may require.

Provision of Health Board patient information leaflets

48. A salaried dentist shall make available to any person who may reasonably require one the Health Board patient information leaflet compiled and provided to that dentist by the Health Board pursuant to regulation 21.

Termination of services

49.—(1) Subject to sub-paragraph (2), any arrangement between the Health Board and a salaried dentist for the provision of general dental services may be terminated by either party giving to the other not less than three months' notice in writing.

(2) If a salaried dentist fails to comply with any of the terms of service that apply to a salaried dentist the Health Board may terminate the agreement by giving him not less than one month's notice in writing.

(3) The Health Board may at any time suspend a salaried dentist from the discharge of his or her duties but such suspension shall not affect the right of the salaried dentist to receive remuneration during the period of suspension.