
WELSH STATUTORY INSTRUMENTS

2011 No. 734

The Independent Health Care (Wales) Regulations 2011

PART II

Registered Persons

Fitness of registered provider

- 10.**—(1) A person must not carry on an establishment or agency unless the person is fit to do so.
- (2) A person is not fit to carry on an establishment or agency unless the person—
- (a) is an individual who satisfies the requirements set out in paragraph (3); or
 - (b) is an organisation and—
 - (i) the organisation has given notice to the appropriate office of the registration authority of the name, address and position in the organisation of an individual (in these Regulations referred to as “the responsible individual”) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the establishment or agency; and
 - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) the individual is of suitable integrity and good character to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment or agency;
 - (b) the individual is physically and mentally fit to carry on, or, as the case may be, be responsible for the supervision of the management of, the establishment or agency; and
 - (c) full and satisfactory information or documentation, as the case may be, is available in relation to the individual in respect of each of the matters specified in paragraphs 1, 2 and 4 to 8 of Schedule 2.
- (4) A person is not fit to carry on an establishment or agency if—
- (a) the person has been adjudged bankrupt or sequestration of the person’s estate has been awarded and (in either case) the person has not been discharged and the bankruptcy order has not been annulled or rescinded or a moratorium period under a debt relief order applies in relation to the person; or
 - (b) the person has made a composition or arrangement with the person’s creditors and has not been discharged in respect of it.

Appointment of manager

- 11.**—(1) The registered provider must appoint an individual to manage the establishment or agency if—
- (a) there is no registered manager in respect of the establishment or agency; and
 - (b) the registered provider—

- (i) is an organisation;
- (ii) is not a fit person to manage an establishment or agency; or
- (iii) is not, or does not intend to be in full-time day to day charge of the establishment or agency.

(2) If the registered provider appoints a person to manage the establishment or agency, the registered provider must forthwith give notice to the appropriate office of the registration authority of—

- (a) the name of the person so appointed; and
- (b) the date on which the appointment is to take effect.

(3) If the registered provider is to manage the establishment or agency he or she must forthwith give notice to the appropriate office of the registration authority of the date on which such management is to begin.

Fitness of manager

12.—(1) A person must not manage an establishment or agency unless the person is fit to do so.

(2) A person is not fit to manage an establishment or agency unless—

- (a) the person is of suitable integrity and good character to manage the establishment or agency;
- (b) having regard to the size of the establishment or agency, the statement of purpose and the number and needs of the patients—
 - (i) the person has the qualifications, skills and experience necessary to manage the establishment or agency; and
 - (ii) the person is physically and mentally fit to do so; and
- (c) full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in paragraphs 1, 2 and 4 to 8 of Schedule 2.

(3) Where a person manages more than one establishment or agency he or she must spend sufficient time at each establishment or agency to ensure that the establishment or agency is managed effectively.

Registered person-general requirements

13.—(1) The registered provider and the registered manager must, having regard to the size of the establishment or agency, the statement of purpose and the number and needs of the patients, carry on or manage the establishment or agency, as the case may be, with sufficient care, competence and skill.

(2) If the registered provider is—

- (a) an individual, he or she must undertake; or
- (b) an organisation, it must ensure that the responsible individual undertakes,

from time to time such training as is appropriate to ensure that he or she has the skills necessary for carrying on the establishment or agency.

(3) Any individual managing the establishment or agency must undertake from time to time such training as is appropriate to ensure that he or she has the skills necessary for managing the establishment or agency.

Notification of offences

14.—(1) Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, the person convicted must forthwith give notice in writing to the appropriate office of the registration authority of—

- (a) the date and place of the conviction;
- (b) the offence of which the person was convicted; and
- (c) the penalty imposed on the person in respect of the offence.

(2) Where the registered person or the responsible individual is charged with any offence in respect of which an order may be made under Part II of the Criminal Justice and Court Services Act 2000 (Protection of Children)(**1**) the registered person or responsible individual must forthwith give notice in writing to the appropriate office of the registration authority of the offence charged and the date and place of the charge.

(1) 2000 c. 43.