
WELSH STATUTORY INSTRUMENTS

2011 No. 734

The Independent Health Care (Wales) Regulations 2011

PART III

Conduct of Health Care Establishments and Agencies

Chapter 4

Notices to be given to the registration authority

Notification of death or unauthorised absence of a patient who is detained or liable to be detained under the Mental Health Act 1983

30.—(1) The registered person must notify the registration authority without delay of the death or unauthorised absence of a patient who is liable to be detained by the registered person—

- (a) under the Mental Health Act 1983 (“the 1983 Act”); or
- (b) pursuant to an order or direction made under another enactment (which applies in relation to Wales), where that detention takes effect as if the order or direction were made pursuant to the provisions of the 1983 Act.

(2) In this regulation—

- (a) References to persons “liable to be detained” (“*agored i’w caethiwo*”) include a community patient who has been recalled to hospital in accordance with section 17E of the 1983 Act, but do not include a patient who has been conditionally discharged and not recalled to hospital in accordance with section 42, 73 or 74 of the 1983 Act;
- (b) “community patient” (“*claf cymunedol*”) has the same meaning as in section 17A of the 1983 Act;
- (c) “hospital” (“*ysbyty*”) means a hospital within the meaning of Part 2 of that Act; and
- (d) “unauthorised absence” (“*absenoldeb diawdurdod*”) means an unauthorised absence from a hospital.

Notification of events

31.—(1) The registered person must give notice to the appropriate office of the registration authority of—

- (a) the death of a patient—
 - (i) in an establishment;
 - (ii) during treatment provided in or for the purposes of an establishment or for the purposes of an agency; or
 - (iii) as a consequence of treatment provided in or for the purposes of an establishment or for the purposes of an agency;

and the date, time, cause (where known) and circumstances of the patient’s death;

- (b) any serious injury to a patient;
- (c) the outbreak in an establishment of any infectious disease, which in the opinion of any medical practitioner employed in the establishment is sufficiently serious to be so notified;
- (d) any allegation of misconduct resulting in actual or potential harm to a patient by the registered person, any person employed in or for the purposes of the establishment or for the purposes of an agency, or any medical practitioner with practising privileges;
- (e) any request to a supervisory body made pursuant to Part 4 of Schedule A1 to the 2005 Act by the registered person for a standard authorisation, including the result of such a request;
- (f) any application made to a court in relation to depriving a patient of their liberty.

(2) For the purposes of this regulation, references to a supervisory body are to a supervisory body as defined in Schedule A1 to the 2005 Act⁽¹⁾ and “standard authorisation” (“*awdurdodiad safonol*”) has the meaning given under Part 4 of Schedule A1 to the 2005 Act.

(3) Notice under paragraph (1) must be given within the period of 24 hours beginning with the event in question and, if given orally, must be confirmed in writing within 72 hours of the oral notification.

(4) If the registered person—

- (a) receives information concerning the death of a patient who has undergone termination of a pregnancy in an independent hospital during the period of 12 months ending on the date on which the information is received; and
- (b) has reason to believe that the patient’s death may be associated with the termination, the registered person must give notice in writing to the appropriate office of the registration authority of that information, within the period of 14 days beginning on the day on which the information is received.

Notice of absence of registered person

32.—(1) Where—

- (a) a registered provider who manages the establishment or agency; or
- (b) a registered manager,

proposes to be absent from the establishment or agency for a continuous period of 28 days or more, the registered person must give notice in writing to the appropriate office of the registration authority of the absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) must be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the registration authority and the notice must specify with respect to the absence—

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for running the establishment or agency;
- (d) the name, address and qualifications of the person who will be responsible for the establishment or agency during that absence; and
- (e) the arrangements that have been or are proposed to be made for appointing another person to manage the establishment or agency during that absence, including the proposed date by which the appointment is to be made.

(1) See Schedule A1, part 13.

(3) Where the absence arises as a result of an emergency, the registered person must give notice of the absence within one week of the emergency's occurrence specifying the matters set out in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) a registered provider who manages the establishment or agency; or
- (b) a registered manager,

has been absent from the establishment or agency for a continuous period of 28 days or more, and the appropriate office of the registration authority has not been given notice of the absence, the registered person must, without delay, give notice in writing to that office, specifying the matters set out in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person must notify the appropriate office of the registration authority of the return to work of a person mentioned in sub-paragraph (a) or (b) of paragraph (4) not later than 7 days after the date of that person's return.

Notice of changes

33.—(1) The registered person must give notice in writing to the appropriate office of the registration authority as soon as it is practicable to do so if any of the following events take place or are proposed to take place—

- (a) a person other than the registered person carries on or manages the establishment or agency;
- (b) a person ceases to carry on or manage the establishment or agency;
- (c) where the registered person is an individual, he or she changes his or her name;
- (d) where the registered provider is an organisation—
 - (i) the name or address of the organisation is changed;
 - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
- (e) the responsible individual changes his or her name;
- (f) there is any change in the identity of the responsible individual;
- (g) where the registered provider is an individual, a trustee in bankruptcy is appointed or a composition or arrangement is made with creditors;
- (h) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (i) the premises of the establishment are significantly altered or extended, or additional premises are acquired which are intended to be used for the purposes of the establishment.

Appointment of liquidators etc

34.—(1) Any person to whom paragraph (2) applies must—

- (a) forthwith notify the appropriate office of the registration authority of the person's appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the establishment or agency in any case where the duty under regulation 11(1) is not being met; and
- (c) before the end of the period of 28 days beginning on the date of the person's appointment, notify the appropriate office of the registration authority of the person's intentions regarding the future operation of the establishment or agency to which the appointment relates.

- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of an organisation which is a registered provider of an establishment or agency;
 - (b) a liquidator or provisional liquidator of a company which is the registered provider of an establishment or agency;
 - (c) the trustee in bankruptcy of a registered provider of an establishment or agency.

Death of registered person

35.—(1) If more than one person is registered in respect of an establishment or agency, and a registered person dies, the surviving registered person must without delay notify the appropriate office of the registration authority of the death in writing.

(2) If only one person is registered in respect of an establishment or agency, and the person dies, the person’s personal representatives must notify the appropriate office of the registration authority in writing—

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the establishment or agency.

(3) The personal representatives of the deceased registered provider may carry on the establishment or agency without being registered in respect of it—

- (a) for a period not exceeding 28 days; and
- (b) for any further period as may be determined by the registration authority in accordance with paragraph (4).

(4) The registration authority may extend the period specified in paragraph (3)(a) by such further period, not exceeding 6 months, as the registration authority may determine, and must notify any such determination to the personal representatives in writing.

(5) The personal representatives must appoint a manager to take full-time day to day charge of the establishment or agency during any period in which, in accordance with paragraph (3), they carry on the establishment or agency without being registered in respect of it.

(6) The provisions of regulation 12 apply to a manager appointed in accordance with paragraph (5).