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WELSH STATUTORY INSTRUMENTS

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**2017 No. 202**

**The Private Dentistry (Wales) Regulations 2017**

**PART 1**

**General**

**Title and commencement**

1. The title of these Regulations is the Private Dentistry (Wales) Regulations 2017 and they come into force on 1 April 2017.

**Application**

2. These Regulations apply in relation to Wales.

**Interpretation**

3.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Care Standards Act 2000 and, with respect to Part 2 of that Act, means that Part as applied with modifications to private dental practices by the Care Standards Act 2000 (Extension of the Application of Part 2 to Private Dental Practices) (Wales) Regulations 2017(1) and by regulation 39 of these Regulations;

“the 1984 Act” (“*Deddf 1984*”) means the Dentists Act 1984(2);

“the 2005 Act” (“*Deddf 2005*”) means the Mental Capacity Act 2005(3);

“the 2008 Regulations” (“*Rheoliadau 2008*”) means the Private Dentistry (Wales) Regulations 2008(4);

“the 2011 Regulations” (“*Rheoliadau 2011*”) means the Private Dentistry (Wales) (Amendment) Regulations 2011(5);

“appropriate office of the registration authority” (“*swyddfa briodol yr awdurdod cofrestru*”) means in relation to a private dental practice—

(a) if an office has been specified under paragraph (2) for the area in which the private dental practice is situated, that office;

(b) in any other case, any office of the registration authority;

“dental care professional” (“*proffesiynolyn gofal deintyddol*”) means—

(a) a dental hygienist;

(b) a dental therapist; or

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(1) S.I. 2017/200 (W.55).

(2) 1984 c. 24.

(3) 2005 c. 9. Relevant amendments were made by the Mental Health Act 2007 (c. 12), sections 50 and 55 and Part 10 of Schedule A1.

(4) S.I. 2008/1976 (W. 185).

(5) S.I. 2011/2686 (W. 288).

(c) a clinical dental technician;

“dental hygienist” (“*hylenydd deintyddol*”), “dental therapist” (“*therapydd deintyddol*”) and “clinical dental technician” (“*technegydd deintyddol clinigol*”) mean persons registered as such with the General Dental Council in the dental care professionals register established under section 36B of the 1984 Act;

“dental services” (“*gwasanaethau deintyddol*”) means dental care and treatment provided by a dentist;

“dentist” (“*deintydd*”) means a person registered in the dentists register kept in accordance with section 14 of the 1984 Act;

“domiciliary services” (“*gwasanaethau cartref*”) means a course of treatment, or part of a course of treatment, provided at a location other than—

- (a) the premises used to carry on a private dental practice;
- (b) a mobile surgery of any provider of private dental services;
- (c) a prison;

“exposure-prone procedures” (“*triniaethau a all arwain at gysylltiad*”) for the purposes of these Regulations refers to invasive procedures where there is a risk that injury to the dentist or dental care professional may result in the exposure of a patient’s open tissue to the blood of the dentist or dental care professional;

“health service hospital” (“*ysbyty gwasanaeth iechyd*”) has the same meaning as in section 206 of the National Health Service (Wales) Act 2006(6);

“insurance” (“*yswiriant*”) means—

- (a) a contract of insurance providing cover for liabilities which may be incurred in carrying out work as a dentist or dental care professional, or
- (b) an arrangement made for the purposes of indemnifying a person against such liabilities;

“major variation fee” (“*ffi amrywiad mawr*”) means the fee payable in respect of an application to vary a condition of registration where the registration authority considers it is necessary for them to inspect under Part 2 of the Act;

“minor variation fee” (“*ffi mân amrywiad*”) means the fee payable in respect of an application to vary a condition of registration where the registration authority considers it is not necessary for them to inspect under Part 2 of the Act;

“mobile surgery” (“*deintyddfa symudol*”) means, for the purposes of these Regulations, any vehicle in which private dental services are provided;

“organisation” (“*sefydliad*”) means a body corporate or any unincorporated association other than a partnership;

“patient” (“*claf*”) means a person to whom dental services or relevant professional services are provided;

“private dental practice” (“*practis deintyddol preifat*”) means an undertaking which consists of or includes the provision of—

- (a) private dental services; or
- (b) relevant professional services otherwise than for the purposes of the National Health Services (Wales) Act 2006;

“private dental services” (“*gwasanaethau deintyddol preifat*”) means dental services otherwise than for the purposes of the National Health Service (Wales) Act 2006 and “private dentistry” (“*deintyddiaeth breifat*”) is to be construed accordingly;

“reasonable adjustments” (“*addasiadau rhesymol*”) means such reasonable adjustments as would be required under the Equality Act 2010(7);

“registered manager” (“*rheolwr cofrestredig*”) means a person who is registered under Part 2 of the Act as the manager of a private dental practice;

“registered person” (“*person cofrestredig*”) means a person who is the registered provider or the registered manager of a private dental practice;

“registered provider” (“*darparwr cofrestredig*”) means a person who is registered under Part 2 of the Act as the person carrying on a private dental practice;

“relevant professional services” (“*gwasanaethau proffesiynol perthnasol*”) means the provision of professional services in accordance with the full scope of practice of a dental care professional, otherwise than in accordance with a prescription from a dentist but does not include—

- (a) the provision of tooth whitening services by a dental hygienist or a dental therapist, and
- (b) the provision and maintenance of dentures for dentate patients(8) by a clinical dental technician;

“responsible individual” (“*unigolyn cyfrifol*”) means an individual who is the director, manager, secretary or other officer of the organisation and is responsible for supervising the management of a private dental practice;

“scope of practice” (“*cwmpas ymarfer*”) has the meaning given for dentists and dental care professionals in the guidance on scope of practice published by the General Dental Council from time to time;

“statement of purpose” (“*datganiad o ddiben*”) means the statement compiled in accordance with regulation 5(1).

(2) The registration authority may specify an office controlled by it as the appropriate office in relation to private dental practices situated in a particular area of Wales.

(3) Where a person is acting on behalf of a patient (including where the patient is a child or lacks capacity) for the purposes of these Regulations and where the context requires, “a patient” (“*claf*”) also means the person acting on behalf of the patient.

## Exceptions

4. For the purposes of these Regulations, an undertaking is not a private dental practice if it consists of—

- (a) the provision of private dental services by a dentist who is employed in a health service hospital and provides such services only in that hospital; or
- (b) the provision of private dental services by a dentist or relevant professional services by a dental care professional only in and for the purposes of an independent hospital.

## Statement of purpose

5.—(1) The registered person must compile in relation to the private dental practice a statement on paper (“the statement of purpose”) which includes the matters listed in Schedule 1.

(2) The registered person must provide a copy of the statement of purpose to the appropriate office of the registration authority, post it on the website of the private dental practice (if there is a website) and make a copy of it available as soon as practicable on request by a patient.

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(7) 2010 c. 15.

(8) A clinical dental technician may only provide the full range of services via direct access arrangements for edentulous patients.

(3) Subject to paragraph (4), the registered person must ensure that the private dental practice is conducted in a manner which is consistent with its statement of purpose.

(4) Nothing in paragraph (3), regulation 13(1) or 22(1) and (2) requires or authorises the registered person to contravene, or not comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered person under Part 2 of the Act.

### **Patient information**

6.—(1) The registered person must compile a document (“the patient information leaflet”), which must include the information specified in Schedule 2.

(2) The registered person must provide a copy of the patient information leaflet to the appropriate office of the registration authority, post it on the website of the private dental practice (if there is a website) and make a copy of it available as soon as practicable on request by a patient.

(3) The registered person must ensure that there is displayed in a prominent position in the private dental practice, in a part to which patients have access, indicative information on charges payable by patients.

### **Review of the statement of purpose and patient information leaflet**

7. The registered person must—

- (a) review the statement of purpose and patient information leaflet at least once in every period of twelve months and make any amendment necessary to maintain their accuracy; and
- (b) notify the appropriate office of the registration authority of any such amendment within 28 days of the review.

### **Policies and procedures**

8.—(1) The registered person must prepare and implement written statements of the policies to be applied and the procedures to be followed in or for the purposes of a private dental practice in relation to each of the matters specified below—

- (a) the arrangements for acceptance of patients;
- (b) the arrangements for assessment, diagnosis and treatment of patients;
- (c) ensuring that the premises used for the purpose of carrying on the private dental practice are at all times fit for that purpose;
- (d) monitoring the quality and suitability of facilities and equipment, including maintenance of such equipment;
- (e) identifying, assessing and managing risks associated with the operation of the private dental practice to employees, patients, visitors and those working in or for the purposes of the private dental practice, including the steps taken in relation to regulation 13(5) and (6);
- (f) the creation, management, handling and storage of records and other information;
- (g) the provision of information to patients and others including clear notifications to patients of any charges payable for private dental services;
- (h) the recruitment, induction and retention of employees, their employment conditions and training requirements;
- (i) ensuring safe recruitment of staff including undertaking checks appropriate to the work that staff are to undertake;

- (j) ensuring that, where research is carried out in a private dental practice, it is carried out with the consent of any patient or patients involved, is appropriate for the practice concerned and is conducted in accordance with any up-to-date and authoritative published guidance on the conduct of research projects;
  - (k) the arrangements for ensuring the health and safety of staff and patients;
  - (l) the ordering, recording, administration and supply of medicines to patients;
  - (m) the arrangements relating to infection control including hand hygiene, safe handling and disposal of clinical waste, housekeeping and cleaning regimes and relevant training and advice;
  - (n) the arrangements for clinical audit;
  - (o) the arrangements for emergency contingencies which ensure the continuous safe running of the private dental practice;
  - (p) the provision of domiciliary services if such services are provided; and
  - (q) the arrangements for dealing with medical emergencies which ensure that staff who may be involved in dealing with a medical emergency receive appropriate training.
- (2) The policies and procedures referred to in paragraph (1) must be prepared having regard to the size of the private dental practice, the statement of purpose and the number and needs of the patients.
- (3) The registered person must prepare and implement written statements of policies to be applied and procedures to be followed for the care and treatment of patients who lack capacity within the meaning of the 2005 Act, which accord with the 2005 Act and any relevant Code of Practice and guidance.
- (4) The written statements referred to in paragraph (3) must include policies and procedures which ensure that—
- (a) the capacity of each patient to consent to treatment is assessed;
  - (b) in the case of a patient who lacks capacity, the requirements of the 2005 Act are complied with before any treatment proposed for the patient is administered; and
  - (c) information about the health, care and treatment of a patient who lacks capacity is disclosed only to those persons who need to be aware of that information in order to treat the patient effectively or minimise any risk of the patient harming himself or herself or another person.
- (5) Where domiciliary services are provided by the private dental practice, the registered person must—
- (a) prepare and implement written statements of policies to be applied and procedures to be followed for the provision of domiciliary services; and
  - (b) have regard to any national guidance on the provision of domiciliary services when preparing the written statements referred to in sub-paragraph (a).
- (6) The registered person must review the operation of policies and procedures implemented under this regulation and regulation 21 (complaints) at intervals of not more than three years and, where appropriate, revise and implement those policies and procedures.
- (7) The registered person must make available upon request by a patient, and any prospective patient, copies of the policies and procedures.
- (8) The registered person must retain copies of all policies and procedures referred in this regulation, including previous versions of policies and procedures that have been revised in accordance with paragraph (6), for a period of not less than three years from the date of creation or revision of the policy or procedure.
- (9) The registered person must make a copy of all written statements prepared in accordance with this regulation available for inspection by the registration authority.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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