

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 5

Records, Information, Notifications and Rights of Entry

Patient records

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

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

- (a) on forms supplied to it for the purpose by the Health Board; or
- (b) with the written consent of the Health Board, by way of computerised records, or in a combination of those two ways.

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

(4) The consent of the Health Board required by sub-paragraph (2)(b) shall not be withheld or withdrawn provided the Health Board is satisfied, and continues to be satisfied, that—

- (a) the computer system upon which the contractor proposes to keep the records has been accredited by the Scottish Ministers or another person on their behalf as suitable for that purpose in accordance with “RFA V.1.—Requirements for Accreditation in General Practice Computer Systems in Scotland”(1);
- (b) the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with paragraph (a) have been enabled; and
- (c) the contractor is aware of, and has signed an undertaking that it will have regard to any guidelines issued by the Scottish Ministers and notified, in writing, to the contractor by the Health Board concerning good practice in the keeping of electronic patient records.

(5) Where a patient’s records are computerised records, the contractor shall, as soon as possible following a request from the Health Board, allow the Board to access the information recorded on the contractor’s computer system by means of the audit function referred to in sub-paragraph (4)(b) to the extent necessary for the Board to confirm that the audit function is enabled and functioning correctly.

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

- (a) where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by the Health Board of the death, or (in any other case) before the end of the period of one month beginning with the date on which it learned of the death; or
- (b) in any other case where the person is no longer registered with the contractor, as soon as possible, at the request of the Health Board.

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

(1) RFA V.1 is published on Scottish Health On the Web (SHOW) at the following link:<http://www.show.scot.nhs.uk/publications/me/gpcomputerrecords/rfav1.pdf>.

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- (a) in written form; or
- (b) with the written consent of the Health Board, in any other form.

(8) The consent of the Health Board to the transmission of information other than in written form for the purposes of sub-paragraph (7)(b) shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters—

- (a) the contractor's proposals as to how the record will be transmitted;
- (b) the contractor's proposals as to the format of the transmitted record;
- (c) how the contractor will ensure that the record received by the Health Board is identical to that transmitted; and
- (d) how a written copy of the record can be produced by the Health Board.

(9) A contractor whose patient records are computerised records shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in sub-paragraph (4)(b).

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

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

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

Confidentiality of personal data

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

Practice leaflet

69. The contractor shall—

- (a) compile a document (in this paragraph called a practice leaflet) which shall include the information specified in Schedule 8;
- (b) review its practice leaflet at least once in every period of twelve months and make any amendments necessary to maintain its accuracy; and
- (c) make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

Provision of information

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

- (a) any information which is reasonably required by the Board for the purposes of or in connection with the contract; and
- (b) any other information which is reasonably required in connection with the Health Board's functions.

(2) The contractor shall not be required to comply with any request made in accordance with sub-paragraph (1) unless it has been made by the Health Board in accordance with directions relating to the provision of information by contractors given to it by the Scottish Ministers under section 2(5) of the Act.

Inquiries about prescriptions and referrals

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

- (a) any prescription form issued by a prescriber;
- (b) the considerations by reference to which prescribers issue such forms;
- (c) the referral by or on behalf of the contractor of any patient to any other services provided under the Act; or
- (d) the considerations by which the contractor makes such referrals or provides for them to be made on its behalf.

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

(3) The contractor shall not be obliged to answer any inquiry referred to in sub-paragraph (1) unless it is made—

- (a) in the case of sub-paragraph (1)(a) or (b), by an appropriately qualified health care professional;
- (b) in the case of sub-paragraph (1)(c) or (d), by an appropriately qualified medical practitioner,

appointed in either case by the Health Board to assist the Board in the exercise of its functions under this paragraph and that person produces, on request, written evidence that the person is authorised by the Health Board to make such an inquiry on its behalf.

Reports to a medical officer

72.—(1) The contractor shall, if it is satisfied that the patient consents—

- (a) supply in writing to a medical officer within such reasonable period as that officer, or an officer of the Department for Work and Pensions on that officer's behalf and at that officer's direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the contractor or a person acting on its behalf has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by a medical officer, or by an officer of the Department of Work and Pensions on that officer's behalf and at that officer's direction, about a prescription form or medical certificate issued by the contractor or on its behalf or about any statement which the contractor or a person acting on its behalf has made in a report.

(2) For the purpose of satisfying the contractor that the patient has consented as required by paragraph (1), the contractor may (unless it has reason to believe the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department for Work and Pensions, that that officer holds the patient's written consent.

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Annual return and review

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

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

(3) Either the contractor or the Health Board may, if it wishes to do so, invite the area medical committee for the area of the Health Board to participate in the annual review.

(4) The Health Board shall prepare a draft record of the review referred to in sub-paragraph (2) for comment by the contractor and, having regard to such comments, shall produce a final written record of the review.

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

Notifications to the Health Board

74.—(1) In addition to any requirements of notification elsewhere in the regulations, the contractor shall notify the Health Board in writing, as soon as reasonably practicable, of—

- (a) any serious incident that, in the reasonable opinion of the contractor, affects or is likely to affect the contractor's performance of its obligations under the contract;
- (b) any circumstances which give rise to the Health Board's right to terminate the contract under paragraph 101,102 or 103(1);
- (c) any appointments system which it proposes to operate and the proposed discontinuance of any such system; and
- (d) any change of which it is aware in the address of a registered patient; and
- (e) the death of any patient of which it is aware.

Notifications to the Health Board

75. The contractor shall, unless it is impracticable for it to do so, notify the Health Board in writing within 28 days of any occurrence requiring a change in the information about it published by the Health Board in accordance with regulations made under section 2C(3) of the Act (Function of Health Boards: primary medical services)(2).

Notifications to the Health Board

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

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

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

- (a) any share in the contractor is transmitted or transferred (whether legally or beneficially) to another person on a date after the contract has come into force;

(2) Section 2C was inserted by the 2004 Act, section 1(2).

- (b) it passes a resolution or a court of competent jurisdiction makes an order that the contractor be wound up;
 - (c) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the contractor;
 - (d) circumstances arise which would enable the court to make a winding up order in respect of the contractor; or
 - (e) the contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts)(3).
- (2) A notice under sub-paragraph (1)(a) shall confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder—
- (a) is a medical practitioner, or that the new shareholder or, as the case may be, personal representative satisfies the conditions specified in section 17L(2)(c)(i) to (viii) of the Act (eligibility to be contractor under general medical services contract)(4); and
 - (b) meets the further conditions imposed on shareholders by virtue of regulations 4 and 5.

Notice provisions specific to a contract with persons practising in partnership

78.—(1) A contractor which is a partnership shall give notice in writing to the Health Board forthwith when—

- (a) a partner leaves or informs the other members of the partnership that the partner intends to leave the partnership, and the date upon which the partner left or will leave the partnership;
 - (b) a new partner joins the partnership.
- (2) A notice under sub-paragraph (1)(b) shall—
- (a) state the date that the new partner joined the partnership;
 - (b) confirm that the new partner is a medical practitioner, or that the partner satisfies the conditions specified in 17L(2)(c)(i) to (viii) of the Act;
 - (c) confirm that the new partner meets the conditions imposed by regulations 4 and 5; and
 - (d) state whether the new partner is a general or a limited partner.

Notification of deaths

79.—(1) The contractor shall report, in writing, to the Health Board, the death on its practice premises of any patient no later than the end of the first working day after the date on which the death occurred.

- (2) The report shall include—
- (a) the patient's full name;
 - (b) the patient's National Health Service number where known;
 - (c) the date and place of death;
 - (d) a brief description of the circumstances, as known, surrounding the death;
 - (e) the name of any medical practitioner or other person treating the patient whilst on the practice premises; and
 - (f) the name, where known, of any other person who was present at the time of the death.

(3) 1986 c. 45.

(4) Section 17L was inserted by the 2004 Act, section 4.

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(3) The contractor shall send a copy of the report referred to in sub-paragraph (1) to any other Health Board in whose area the deceased was resident at the time of the patient's death.

Notifications to patients following variation of the contract

80. Where the contract is varied in accordance with Part 8 of this Schedule and, as a result of that variation—

- (a) there is to be a change in the range of services provided to the contractor's registered patients; or
- (b) patients who are on the contractor's list of patients are to be removed from that list,

the Health Board shall notify those patients in writing of the variation and its effect and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of essential services (or their equivalent).

Entry and inspection by the Health Board

81.—(1) Subject to the conditions in sub-paragraph (2), the contractor shall allow persons authorised in writing by the Health Board to enter and inspect the practice premises at any reasonable time.

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

- (a) reasonable notice of the intended entry has been given;
- (b) written evidence of the authority of the person seeking entry is produced to the contractor on request; and
- (c) entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

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