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WELSH STATUTORY INSTRUMENTS

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**2008 No. 1425**

**The National Health Service (Primary Medical Services) and (Performers Lists) (Miscellaneous Amendments) (Wales) Regulations 2008**

**PART 2**

**Amendment of the GMS Contracts Regulations**

**Amendment of regulation 2 of the GMS Contracts Regulations**

2. In the definition of “CCT”, omit the words “, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in article 20(3)(a) of that Order”.

**Amendment of regulation 5 of the GMS Contracts Regulations**

3. In regulation 5 (general condition relating to all contracts) of the GMS Contracts Regulations, in paragraph (2)(i)(ii), after “Insolvency Act 1986” insert “or Schedule 2A to the Insolvency (Northern Ireland) Order 1989”(1).

**Amendment of Schedule 6 to the GMS Contracts Regulations**

4. In Schedule 6 (other contractual terms) to the GMS Contracts Regulations—

(a) in paragraph 15 (application for inclusion in a list of patients)—

(i) for sub-paragraph (4)(b), substitute—

“(b) on behalf of any adult who lacks the capacity to make such an application, or to authorise such an application to be made on their behalf, by a relative of that person, the primary carer of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005(2).”, and

(ii) in sub-paragraph (6)(b), for “incapable adult”, substitute “an adult who lacks capacity”;

(b) in paragraph 17(3) (which relates to the refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident), for “incapable adult”, substitute “an adult who lacks capacity”;

(c) in paragraph 18(1)(a) (which relates to patient preference of practitioner), for “incapable adult”, substitute “an adult who lacks capacity”;

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(1) S.I.1989/2405 (N.I. 19)

(2) 2005 c. 9.

- (d) for paragraph 19(5)(b) (which relates to removal from the list at the request of the patient), substitute—
- “(b) in the case of an adult patient who lacks the capacity to make the relevant request or receive the relevant advice, information or notification, a relative of that person, the primary carer of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005.”;
- (e) in paragraph 52 (qualifications of performers)—
- (i) in sub-paragraph (2)(b), omit the final “or”,
- (ii) in sub-paragraph (2)(c)(ii) for “two” substitute “three”,—
- (iii) after sub-paragraph (2)(c), add the following—
- “(d) a medical practitioner who is already included in the medical performers list of another primary care organisation and who has submitted an application to a Local Health Board in accordance with regulation 4A of the National Health Service (Performers Lists) (Wales) Regulations 2004 until the first of the following events arises—
- (i) the Local Health Board notifies him or her of its decision on that application; or
- (ii) the end of a period of three months, starting with the date on which the application was submitted; or
- (e) a medical practitioner, who—
- (i) is not a GP Registrar;
- (ii) is undertaking a programme of post-registration supervised clinical practice supervised by the Postgraduate Medical Education and Training Board (“a post-registration programme”);
- (iii) has notified the Local Health Board that he or she will be undertaking part or all of a post-registration programme in its area at least 24 hours before commencing any part of that programme taking place in the Local Health Board’s area; and
- (iv) has, with that notification, provided the Local Health Board with evidence sufficient for it to satisfy itself that he or she is undergoing a post-registration programme,
- but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.”, and
- (iv) in sub-paragraph (3) after “regulation 21(2)” insert “and “primary care organisation” has the meaning given in regulation 2” ;
- (f) in paragraph 56 (conditions for training and employment)—
- (i) in sub-paragraph (1) for “(2) and (3)” substitute “(2) to (4)”,
- (ii) in sub-paragraph (3)(b) for “two” substitute “three”,
- (iii) after sub-paragraph (3) insert the following—
- “(4) Where the prospective employee is a medical practitioner who is already included in the medical performers list of another primary care organisation and who has submitted an application to the Local Health Board in accordance with regulation 4A of the National Health Service (Performers Lists) (Wales) Regulations 2004, the requirements set out in sub-paragraph (1) shall apply with the modifications that—

- (a) the name and address provided under sub-paragraph (1) may be the name and address of the Local Health Board on whose list the medical practitioner has applied for inclusion, provided that the name and address of the primary care organisation on whose list the medical practitioner is already included is provided in addition; and
  - (b) confirmation that the medical practitioner's name appears on that list shall not be required until the first of the following events arises—
    - (i) the Local Health Board notifies the medical practitioner of its decision on that application, or
    - (ii) the end of a period of three months, starting with the date on which the Local Health Board receives the application.
- (5) In this paragraph “primary care organisation” has the meaning given in regulation 2 of the National Health Service (Performers Lists) (Wales) Regulations 2004.”;
- (g) in paragraph 58(1) (which relates to conditions for employment and engagement), after the word “contract”, insert “, other than a medical practitioner falling within paragraph 52(2)(e),”;
  - (h) in paragraph 91(b) (which relates to the making of complaints), for “is incapable of making a complaint”, substitute “lacks the capacity to make a complaint”;
  - (i) in paragraph 111(2)(j)(ii) (which relates to other grounds for termination by the Local Health Board), after “Insolvency Act 1986” insert “or Schedule 2A to the Insolvency (Northern Ireland) Order 1989”;
  - (j) in paragraphs 113(1) and (5) (which relate to termination by the Local Health Board: remedial notices and breach notices), for “specified in paragraphs 109 to 112”, substitute “specified in paragraphs 109 to 112A”;
  - (k) for paragraph 118 (1) (which relates to consultation with the Local Medical Committee), substitute—
    - “(1) Whenever the Local Health Board is considering—
      - (a) terminating the contract pursuant to paragraph 110, 111, 112, 113(4) or (6) or 114;
      - (b) which of the alternative notices in writing available under the provisions of paragraph 112A it will serve; or
      - (c) imposing a contract sanction,it shall, whenever it is reasonably practicable to do so, consult the Local Medical Committee for its area before it terminates the contract, serves a notice in writing or imposes a contract sanction.”;
  - (l) in paragraph 119(1) (which relates to clinical governance), after “effective system of clinical governance” insert “which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs”.