

2010 No. 376

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Primary Medical Services Performers Lists) (Amendment) Regulations (Northern Ireland) 2010

Made - - - - *15th November 2010*

Coming into operation- - *7th December 2010*

The Department of Health, Social Services and Public Safety^(a) makes the following Regulations in exercise of the powers conferred on it by Articles 57(G), 106(b) and 107(6) of, and paragraph 1(8)(a) of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972^(b) and in conjunction with the Department of Finance and Personnel.

Citation and commencement

1. These Regulations may be cited as the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2010 and shall come into operation on 7th December 2010.

Interpretation

2. In these Regulations “the principal Regulations” means the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004^(c)

3. In regulation 2 of the principal Regulations (Interpretation)—

(a) after the definition of “disqualification” insert—

““emergency registered practitioner” means a medical practitioner—

(a) who is registered as a registered medical practitioner pursuant to section 18A of the Medical Act^(d) (temporary registration with regard to emergencies involving loss of human life or human illness etc.);

(b) whose name, within the period of five years prior to being so registered, had been included on the primary medical services performers list; and

(c) whose name was subsequently removed from the primary medical services performers list—

(i) on the ground referred to in regulation 10(1); or

(a) See S.I. 1999/283 (N.I. 1) Article 3(6)

(b) S.I. 1972/1265 (N.I.14) Article 57G was inserted by S.I. 2004/311 (N.I.2)) and amended by 2008 c.2 (N.I.) –section 1. Schedule 11 was substituted by 2001 c.3 (N. I.)Schedule 2 and amended by S.I. 2004/311 (N.I. 12) Article 8(3) and 2008 c.2 (N.I) Schedule 1

(c) S.R. 2004 No. 149 as amended by S.R.2008 No.434

(d) 1983 c.54. Section 18A was inserted by paragraph 10 of Schedule 1 to S.I.2008/1774

- (ii) on some other ground unconnected with impairment of fitness to practise (for these purposes, impairment is construed in accordance with section 35C(2)(a) of the Medical Act (functions of the Investigation Committee));
- (b) after the definition of “performer” insert—
 - ““period of emergency” means the period—
 - (a) beginning when the Secretary of State advises the Registrar of the General Medical Council (the Registrar”) that an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004(b) (meaning of emergency), read with subsection (2)(a) and (b) of that section has occurred, is occurring or is about to occur;
 - (b) ending when the Secretary of State advises the Registrar that the circumstances that led to the Secretary of State to advise the Registrar as mentioned in paragraph (a) no longer exist.”.

4. After regulation 6 of the principal Regulations (Application for inclusion in the primary medical services performers list) insert—

“Disapplication of provisions with regard to emergency registered practitioners

6A.—(1) Regulations 6 and 7(1) do not apply to applications made during a period of emergency for inclusion of the name of an emergency registered practitioner in the primary medical services performers list.

(2) Regulation 9(1)(c) does not apply in respect of the removal of an emergency registered practitioner’s name from the primary medical services performers list.

Applications relating to emergency registered practitioners

6B.—(1) An application made during a period of emergency by an emergency registered practitioner for inclusion in the primary medical services performers list shall be made in writing to the Regional Board and shall include the requirements specified in Schedule 1 as modified in accordance with paragraph (2).

(2) Schedule 1 shall apply to an application referred to in paragraph (1) as if—

- (a) paragraph 1(b), (e), (g), (i), (j), (l) and (m);
- (b) paragraph 2(a), (b) and (o);
- (c) paragraph 3(a)(i), (ii) and (iii), (c), (d) and (e); and
- (d) paragraph 4,

were omitted.

(3) In addition to the information required in Schedule 1, as modified by paragraph (2), the following must be supplied with the an application referred to in that paragraph—

- (a) an enhanced criminal record certificate under section 113B of the Police Act 1997(c) (enhanced criminal record certificates) or, if none is supplied with the application, an undertaking—
 - (i) if not already applied for, to apply for such a certificate within 7 days; and
 - (ii) to provide that certificate to the Regional Board within 7 days of receiving it.

(4) The Regional Board must refuse to include a medical practitioners name in the primary medical services performers list pursuant to an application referred to in paragraph (1) if the medical practitioner is not an emergency registered practitioner.

(a) Section 35C is substituted by S.I.2002/3135
 (b) 2004 c.36
 (c) S.I. 2008 No. 542

Removal of emergency registered practitioners from the primary medical services performers list

6C.—(1) The grounds in regulation 10 for the removal by the Regional Board of a performer’s name from the primary medical services performers list do not apply in respect of an emergency registered practitioner.

(2) In addition to the grounds specified in regulation 9(1), the Regional Board must remove the name of an emergency registered practitioner from the primary medical services performers list where—

- (a) that practitioner has not, on request, provided evidence to the Regional Board that the certificate referred to in regulation 6B(3) has been applied for (despite the undertaking to apply for the certificate); or
- (b) that practitioner has not provided that certificate to the Regional Board (despite the undertaking to provide it)

within the relevant period specified in regulation 6(B)(3).

(3) The Regional Board may also remove an emergency registered practitioner’s name from its primary medical services performers list where it considers such removal to be justified, after having checked—

- (a) as far as reasonably practicable, the information provided with the application, in particular that provided under paragraphs 2(c) to (n) of Schedule 1 and having sight of the relevant documents;
- (b) with the RBSO for any facts it considers relevant relating to past or current fraud investigations involving or related to the emergency registered practitioner, which that organisation shall supply, and having considered these and any other facts in its possession relating to fraud involving or relating to that practitioner; or
- (c) with the Department for any facts considered relevant to past or current investigations or proceedings involving or related to the emergency registered practitioner which the Department shall supply, and having considered these and any other facts in its possession involving or related to the practitioner.

(4) The RBSO or the Department must, in response to a request from the Regional Board, supply to it any information they consider relevant for the consideration by the Regional Board of the question in paragraph 3(b) or, as the case may be, (c).”.

5. In regulation 13 of the principal Regulations (Appeal to the Department) after paragraph (1A) insert—

“(1B) Paragraph (1C) applies instead of paragraphs (1) and (1A) in respect of the decisions of the Regional Board—

- (a) to refuse to include a medical practitioner’s name in its primary medical services performers list where that practitioner has applied to be included on the list in accordance with regulation 6B(1); or
- (b) remove an emergency registered practitioner’s name from its primary medical services performers list.

(1C) No appeal lies in respect of a decision referred to in paragraph (1B).”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
15th November 2010



Christine Jendoubi
A senior officer of the Department of Health, Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 15th November 2010



Jack Layberry
A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Order)

These regulations make amendments to the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004 (“principal Regulations”), which provide for a list (“primary medical services performers list”) of medical practitioners who may perform primary medical services for which the Regional Health And Social Care Board (“the Regional Board”) is under a duty to provide or secure the provision of.

In particular, they create a special procedure in relation to medical practitioners who apply to be included in the primary medical services performers list, are refused admittance to such a list or are removed from such a list, where those practitioners have been registered by the General Medical Council under their emergency provisions in section 18A of the Medical Act 1983 (c.54).

Regulation 3 inserts a definition of “emergency registered practitioner” into the principal Regulations, such practitioners being able to apply to be included in the Regional Board’s primary medical services performers list where they had been on such a list in the preceding five years and had only been removed from that list because they had not performed primary medical services for the Board in the previous 12 months or for some other reason unconnected with their conduct. Such practitioners need not supply all the information normally supplied by performers list applicants. This regulation also inserts a definition of a “period of emergency”.

Regulation 4 inserts new regulations 6A to 6C into the principal Regulations.

Regulation 6A disapplies regulation 6, 7(1) and 9(1)(c) of the principal Regulations in respect of an application by an emergency registered practitioner for inclusion in the primary medical services performers list or in respect of refusal to include or removal of an emergency registered practitioner’s name from the list.

Regulation 6B prescribes what information need not be provided by an emergency registered practitioner in an application for inclusion in the primary medical services performers list. It also sets out the requirement for the provision of an enhanced criminal record certificate

Regulation 6C prescribes the limited grounds which the Regional Board can remove an emergency registered practitioner from the primary medical services performers list.

Regulation 5 provides that no appeal right lies in respect of refusals to include and decisions to remove emergency registered practitioners from the Regional Board’s primary medical services performers list.

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