
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 137

Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996

Part II

Provisions relating to investigations, disputes, appeals etc

Determination of appropriate Board

8.—(1) The appropriate Board, after due consideration of a report presented to it by the discipline committee pursuant to paragraph 7(1) of Schedule 2, shall—

- (a) accept as conclusive the findings of fact made by that committee;
- (b) accept as conclusive the inferences from those findings of fact which that committee considered could properly be drawn from those findings as to whether the practitioner had failed to comply with any of the terms of service detailed in the appropriate Board's statement of case;
- (c) determine, having regard to any recommendation made by the discipline committee pursuant to paragraph 7(1)(e) of Schedule 2 either—
 - (i) that no further action should be taken in relation to the report, or
 - (ii) that action should be taken in relation to the practitioner, in accordance with any one or more of the provisions of paragraphs (3) and (5).

(2) If the appropriate Board decides either not to adopt the recommendation of the discipline committee or to take any action not recommended by the committee it shall record in writing its reasons for that decision.

(3) Where, in the case of any doctor to whom a report of a discipline committee relates, the appropriate Board is satisfied, after consultation with the Local Medical Committee, that, because of the number of persons included in his list, the doctor is unable to give adequate treatment to all those persons, it may impose a special limit on the number of persons for whom the doctor may undertake to provide treatment.

(4) Where, pursuant to paragraph (3), the appropriate Board imposes a special limit on the number of persons for whom a doctor may undertake to provide treatment, paragraphs (3) and (4) of regulation 22 of the General Medical and Pharmaceutical Regulations (limitation of doctors' lists) shall have effect in his case with suitable modifications and, in particular, as if the reference in those paragraphs—

- (a) to "a maximum number" was a reference to the special limit imposed under paragraph (3) of this regulation; and
- (b) to "an excess" was a reference to the extent to which the number of patients on the doctor's list exceeds that special limit.

(5) Where it has been determined that a practitioner to whom the report of the disciplinary committee relates has failed to comply with any of his terms of service the appropriate Board may—

- (a) determine that an amount shall be recovered from the practitioner, whether by way of deduction from his remuneration or otherwise;
- (b) where the practitioner is a dentist, determine that the dentist should be required to submit estimates for the prior approval of the Dental Committee—
 - (i) in respect of any treatment of such description, and
 - (ii) during such a period,as shall be specified in the determination;
- (c) determine that the practitioner should be warned to comply more closely with his terms of service in future.

(6) In acting under sub-paragraphs (a) to (c) the appropriate Board may take into consideration any previous determination made by any Board, so long as such a determination has not been overturned on appeal and was not made more than 6 years prior to the date of referral under regulation 5(1), that the practitioner had, on some other occasion, failed to comply with his terms of service.

(7) The appropriate Board shall give notice in writing of its determination under paragraph (1) and any determination under paragraph (5), to the practitioner, any person who is treated as a party pursuant to paragraph 2(3) of Schedule 2, the discipline committee and the Department, and shall include with the notice—

- (a) a copy of the report of the discipline committee;
- (b) a statement of any reasons recorded by the appropriate Board under paragraph (2); and
- (c) a statement as to the rights of appeal to the Department under regulation 9.

(8) Subject to paragraph (9), where the appropriate Board determines under this regulation that action should be taken in accordance with any of the provisions of paragraphs (3), (5)(a), (b) or (c) that action shall be taken by the appropriate Board except that where, at the time when such action falls to be taken, the practitioner's name is no longer included in that Board's list but is included in the list of some other Board, that action shall be taken by that other Board.

(9) Where, in the case of a dentist, the appropriate Board has determined that action should be taken in accordance with paragraph (5)(a), by recovery of an amount from the dentist and is of the opinion that such recovery should be effected by deduction of the amount from the dentist's remuneration, the appropriate Board shall notify the Agency, and the Agency shall effect the recovery.

(10) Any amount determined under paragraph (5)(a) as being recoverable shall, to the extent that it is not recovered from the practitioner's remuneration, be a debt owed by the practitioner to the Board by which it is recoverable.

(11) Where the appropriate Board makes a determination under the provisions of paragraph (5) (a), (b) or (c) no action shall be taken in consequence of that determination—

- (a) if no appeal is brought, before the end of the period specified in regulation 9(2) for bringing an appeal; or
- (b) if an appeal is brought, before it has received notice—
 - (i) that the appeal has been withdrawn, or
 - (ii) of the Department's determination of the appeal.