

2001 No. 289

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (General Dental Services)
Amendment Regulations 2001**

Made - - - - - *4th February 2001*

Laid before Parliament *13th February 2001*

Coming into force - - *19th March 2001*

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 15(1), 35(1), 36(1) and (3) and 126(4) of the National Health Service Act 1977(a) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) Amendment Regulations 2001 and shall come into force on 19th March 2001.

(2) These Regulations extend to England only.

Amendment of the National Health Service (General Dental Services) Regulations 1992

2. The National Health Service (General Dental Services) Regulations 1992 “the principal Regulations”(b) shall be amended in accordance with the following provisions of these Regulations.

Amendment of regulation 2

3. In regulation 2(1) (interpretation) insert the following definitions in the appropriate places in alphabetical order—

““dental list” shall be construed in accordance with regulation 4(1);

“general anaesthesia list” shall be construed in accordance with regulation 5D;”.

(a) 1977 c. 49: *see* section 128(1), as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i); and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 38(2), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 5(2); by the 1990 Act, section 12(1) and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 6. Section 35(1) was substituted by S.I. 1985/39, article 7(9), and amended by the 1995 Act, Schedule 1, paragraph 24. Section 36(1) was so numbered by the 1984 Act, Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(10); by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 4; by the 1990 Act, section 24 and by the 1995 Act, Schedule 1, paragraph 25(a). Section 36(3) was inserted by the 1990 Act, section 24(3). Section 126(4) was amended by the 1990 Act, section 65(2); and by the 1999 Act, Schedule 4, paragraph 37(6). As regards Wales, the functions of the Secretary of State under sections 15, 35, 36 and 126(4) of the 1977 Act were transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1; these Regulations therefore extend only to England.

(b) S.I. 1992/661; relevant amending instruments are S.I. 1993/2209, 1993/3172, 1995/3092, 1998/1648 and 2000/2459.

Amendment of regulation 4

4. In regulation 4 (dental list)—
 - (a) delete “and” at the end of paragraph (2)(b)(ii); and
 - (b) at the end of paragraph 2(b)(iii)(a) add
“; and
(iv) whether the dentist’s name is on the general anaesthesia list.”.

Amendment of regulation 5

5. In regulation 5 (application for inclusion in the dental list)—
 - (a) for “FHSA” in each place where that abbreviation occurs substitute the words “Health Authority”;
 - (b) after paragraph (2) insert—
 - “(2A) Where the Health Authority determine in accordance with paragraph (2) that a dentist’s name should not be included in the dental list because the Health Authority are dissatisfied with the proposed practice premises following their inspection of them, the dentist may, within 28 days following the day he received notice of such determination, appeal to the Secretary of State against it.
 - (2B) Where a dentist appeals in accordance with paragraph (2A), the Secretary of State shall make arrangements with the dentist to carry out an inspection of the proposed practice premises within 28 days following receipt of the dentist’s notice of appeal, or such longer period as may be mutually agreed.
 - (2C) The inspection shall be carried out in the company of the dentist and a representative of the Health Authority.
 - (2D) The Secretary of State shall, following the inspection, determine whether the proposed practice premises are proper and sufficient for the provision of general dental services.
 - (2E) Where the Secretary of State determines, in accordance with paragraphs (2B) to (2D), that the proposed practice premises are proper and sufficient for the provision of general dental services, he shall notify the Health Authority forthwith and the Health Authority shall, on receiving such notification, include the dentist’s name in the dental list forthwith and inform the dentist accordingly.”.

General anaesthesia list

6. After regulation 5C(b) insert—

“General anaesthesia list

5D.—(1) The Health Authority shall draw up and maintain a list (in these Regulations referred to as the “general anaesthesia list”) of the names of those dentists who provide any treatment to patients under general anaesthesia and a dentist’s name may only be included in a Health Authority’s general anaesthesia list if his name is included in that Health Authority’s dental list.

(2) The general anaesthesia list shall, in addition to containing the name of a dentist, contain the addresses of all of the practice premises at which he provides treatment to patients under general anaesthesia.

(3) A dentist whose name is included in a Health Authority’s general anaesthesia list may only provide treatment under general anaesthesia at premises which are specified against his name in the list.

(4) Any dentist whose name is, on 19th March 2001, on a Health Authority’s dental list shall have his name included in that Health Authority’s general anaesthesia list if he notifies the Health Authority in writing within 14 days of that date of his wish for his name to be included in that list.

(a) Regulation 4(2)(b)(iii) was inserted in the principal Regulations by S.I. 1998/1648, regulation 4.

(b) Regulation 5C was inserted in the principal Regulations by S.I. 1993/2209, regulation 4 and amended by S.I. 1993/3172.

(5) Where paragraph (4) does not apply a dentist may apply to a Health Authority for the inclusion of his name in their general anaesthesia list by writing to the Health Authority specifying the premises at which he intends to perform treatments on patients under general anaesthesia.

(6) Where a dentist makes an application in accordance with paragraph (5) the Health Authority shall inspect the dentist's proposed practice premises and, unless the dentist otherwise agrees, the Health Authority shall determine that application within 14 days of such inspection.

(7) Where the Health Authority determine in accordance with paragraph (6) that a dentist's name should be included in their general anaesthesia list, they shall, as soon as is reasonably practicable, add the dentist's name to their list and inform the dentist accordingly.

(8) Where the Health Authority determine in accordance with paragraph (6) that a dentist's name should not be included in their general anaesthesia list because the Health Authority are dissatisfied with the proposed practice premises following their inspection of them, the dentist may, within 28 days following the day he received notice of such determination, appeal in writing to the Secretary of State against it.

(9) Where a dentist appeals in accordance with paragraph (8), the Secretary of State shall make arrangements with the dentist to carry out an inspection of the proposed practice premises within 28 days following receipt of the dentist's notice of appeal, or such longer period as may be mutually agreed.

(10) The inspection shall be carried out in the company of the dentist and a representative of the Health Authority.

(11) The Secretary of State shall, following the inspection, determine whether the proposed practice premises are proper and sufficient for the provision of treatment under general anaesthesia.

(12) Where the Secretary of State determines, in accordance with paragraphs (9) to (11), that the proposed practice premises are proper and sufficient for the provision of treatment under general anaesthesia, he shall notify the Health Authority forthwith and the Health Authority shall, on receiving such notification, add the dentist's name to their general anaesthesia list forthwith and inform the dentist accordingly.

(13) A dentist may apply for his name to be removed from the general anaesthesia list by notifying the Health Authority of his wish in writing.

(14) A dentist's name shall be removed from the general anaesthesia list forthwith if his name is removed for any reason from the Health Authority's dental list.

Removal from or amendment of general anaesthesia list

5E.—(1) Where, following an inspection under paragraph 33A(6) of Schedule 1, the Health Authority determine that the practice premises are no longer proper and sufficient for the provision of treatment under general anaesthesia, they shall inform the dentist accordingly and the dentist may, within 28 days following the day he received notice of such determination, appeal to the Secretary of State against it.

(2) In a case falling within paragraph (1) the Health Authority shall ascertain whether the dentist has appealed and, where he has not done so, shall, subject to paragraph (8), remove his name from the general anaesthesia list forthwith.

(3) Where a dentist appeals in accordance with paragraph (1), the Secretary of State shall make arrangements with the dentist to carry out an inspection of the practice premises within 28 days following receipt of the dentist's notice of appeal, or such longer period as may be mutually agreed.

(4) The inspection shall be carried out in the company of the dentist and a representative of the Health Authority.

(5) The Secretary of State shall, following the inspection, determine whether the practice premises continue to be proper and sufficient for the provision of treatment under general anaesthesia.

(6) Where the Secretary of State determines, in accordance with paragraphs (3) to (5), that the practice premises continue to be proper and sufficient for the provision of treatment under general anaesthesia, he shall notify the Health Authority and the dentist forthwith.

(7) Where the Secretary of State determines, in accordance with paragraph (3), that the practice premises are no longer proper and sufficient for the provision of treatment under general anaesthesia, he shall notify the Health Authority forthwith and the Health Authority shall, on receiving such notification, but subject to paragraph (8), remove the dentist's name from their general anaesthesia list forthwith.

(8) Where a case falls within paragraph (2) or (7) but the dentist provides treatment to patients under general anaesthesia at more than one set of premises, the address of the premises in question shall be erased from the general anaesthesia list but the dentist's name shall continue to be included in the list unless all of the premises at which he provides such treatment are no longer proper and sufficient for the provision of treatment under general anaesthesia.”.

Amendment of Schedule 1

7.—(1) Schedule 1 (terms of service for dentists) is amended as follows.

(2) In paragraph 16 (mixing of general dental services and private care and treatment)—

(a) at the end of sub-paragraph (3)(a) delete “and”; and

(b) after sub-paragraph (3)(b) add—

“or;

(c) where the treatment involves the administration of general anaesthesia, in which case the treatment shall be provided wholly under general dental services or wholly privately.”.

(3) In paragraph 21 (general anaesthesia and sedation)—

(a) in sub-paragraph (1) after “is necessary,” insert “he shall do so only if his name is included in the Health Authority's general anaesthesia list and”;

(b) in sub-paragraph (1)(a) for “a doctor or another dentist experienced in the administration of general anaesthesia” substitute “an appropriately qualified doctor”; and

(c) after sub-paragraph (3) add—

“(4) In this paragraph “an appropriately qualified doctor” means a doctor who is—

(a) on the specialist register of the General Medical Council as an anaesthetist; or

(b) working under supervision as part of a Royal College of Anaesthetists' approved training programme; or

(c) an anaesthetist other than a consultant anaesthetist employed by a health service hospital under the supervision of a named consultant anaesthetist employed by the anaesthetic department of the same health service hospital.”.

(4) After paragraph 33 (premises etc.) insert—

“Premises: general anaesthesia

33A.—(1) A dentist whose name has been included in the general anaesthesia list shall notify the Health Authority of any change of address of his practice premises, and inform the Health Authority whether he wishes to perform treatment under general anaesthesia at his new practice premises.

(2) Where the dentist informs the Health Authority that he does not wish to perform treatment under general anaesthesia at his new practice premises, the Health Authority shall remove the dentist's name from the general anaesthesia list forthwith.

(3) Where the dentist informs the Health Authority that he wishes to perform treatment under general anaesthesia at his new practice premises, he shall apply to the Health Authority in writing to continue to be included in their general anaesthesia list.

(4) The provisions of paragraphs (6) to (12) of regulation 5D shall be applied to an application under paragraph (3) as if it were an application for inclusion in the general anaesthesia list.

(5) The dentist shall not provide treatment under general anaesthesia at his new practice premises unless his application or, in the case of an appeal, his appeal, is determined in his favour.

(6) A dentist whose name is included in the general anaesthesia list shall, at any time during the hours during which his practice premises are usually open for the provision of general dental services, admit a dental officer or a person authorised by the Health Authority for the purpose of inspecting any practice premises of his at which treatment under general anaesthesia is or may be provided, whether or not notice has been given.”.

(5) In paragraph 40 (general anaesthetics), delete “or another dentist”.

Signed by authority of the Secretary of State for Health

4th February 2001

Hunt
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (General Dental Services) Regulations 1992 (S.I. 1992/661) (“the principal Regulations”) which regulate the terms on which general dental services are provided under the National Health Service Act 1977.

The Regulations provide for the establishment of a list of those dentists providing treatment as part of general dental services to patients under general anaesthesia (regulation 6). This includes a right of appeal where a dentist is denied inclusion in the general anaesthesia list because of the condition of his premises. Regulation 5 introduces a similar right of appeal for a dentist who is denied inclusion in the dental list.

Regulation 7 amends Schedule 1 to the principal Regulations which sets out dentists’ terms of service. It provides that treatment under general anaesthesia as part of general dental services cannot be provided unless the dentist is on the Health Authority’s general anaesthesia list, that general anaesthesia may not form part of treatment which mixes general dental services and private dentistry, and that dentists on the general anaesthesia list must permit inspections of their premises. It also substitutes new categories of those who are permitted to administer general anaesthesia for the purposes of general dental services.

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