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STATUTORY INSTRUMENTS

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**2002 No. 3212**

**Nurses Agencies Regulations 2002**

**PART III**

**CONDUCT OF NURSES AGENCIES**

**CHAPTER 1**

**QUALITY OF SERVICE PROVISION**

**Fitness of nurses supplied by an agency**

**12.**—(1) The registered person shall ensure that no nurse is supplied by the agency unless—

- (a) she is of integrity and good character;
- (b) she has the qualifications, skills and experience which are necessary for the work which she is to perform;
- (c) she is physically and mentally fit for that work; and
- (d) full and satisfactory information is available in relation to her in respect of each of the matters specified in Schedule 3.

(2) The registered person shall ensure that the selection of a nurse for supply is made by or under the supervision of a nurse and that full and satisfactory information in respect of each of the matters listed in Schedule 2 is available in relation to the nurse carrying out the selection.

(3) The registered person shall ensure that every nurse supplied by the agency acting as an employment business is instructed that when working for a service user she must at all times wear identification showing her name, the name of the agency and a recent photograph.

**Policies and procedures**

**13.**—(1) Paragraphs (2) and (3) apply where an agency acting as an employment business<sup>(1)</sup> supplies a nurse to provide nursing care in the private residence of a service user or patient.

(2) The registered person shall prepare and implement written policies in relation to—

- (a) ensuring that the services provided to each patient are in accordance with the statement of purpose and meet that patient's individual needs;
- (b) the circumstances in which nurses may administer or assist in the administration of a patient's medication;
- (c) the other tasks which nurses may or may not perform in connection with a patient's care, and the tasks which may only be performed if the nurse has received specialist training;
- (d) arrangements to assist patients with mobility in their homes, where required;
- (e) measures to protect the safety and property of the patient;

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<sup>(1)</sup> See section 121(1) of the Act for the definition of "employment business".

- (f) arrangements to ensure that the privacy, dignity and wishes of the patient are respected;
  - (g) measures to safeguard the patient against abuse or neglect;
  - (h) measures to safeguard nurses against abuse or other harm;
  - (i) the procedure to be followed after an allegation of abuse, neglect or other harm has been made.
- (3) The procedure referred to in paragraph (2)(i) shall in particular provide for—
- (a) written records to be kept of any allegation of abuse, neglect or other harm and of the action taken in response; and
  - (b) the Commission to be notified of any incident reported to the police, not later than 24 hours after the registered person—
    - (i) has reported the matter to the police; or
    - (ii) is informed that the matter has been reported to the police.
- (4) The registered person shall ensure that any personal information about a patient for whom a nurse is supplied by the agency is not disclosed to any member of the agency's staff unless it is necessary to do so in order to provide an effective service to the patient.

### **Staffing**

**14.—**(1) Where an agency is acting as an employment business, the registered person shall, having regard to the size of the agency, its statement of purpose and the number and needs of the service users, take all reasonable measures to ensure that there is at all times an appropriate number of suitably qualified, skilled and experienced persons employed for the purposes of the agency.

- (2) The registered person shall ensure that each employee of the agency—
- (a) receives appropriate supervision; and
  - (b) is provided with a job description outlining her responsibilities.

(3) The registered person shall establish a procedure for collecting information from service users about the performance of nurses employed for the purposes of the agency, and shall take such steps as may be necessary to address any aspect of a nurse's clinical practice.

(4) The registered person shall provide to each nurse who is employed for the purposes of the agency a written statement of the terms and conditions on which she will be supplied to work for, and under the control of, a service user.

(5) The statement of terms and conditions provided under paragraph (4) shall, in particular, specify the employment status of the nurse.

### **Staff handbook**

**15.—**(1) Where the agency is acting as an employment business, the registered person shall prepare a staff handbook and provide a copy to every member of staff.

- (2) The handbook prepared in accordance with paragraph (1) shall include a statement as to—
- (a) the conduct expected of staff, and disciplinary action which may be taken against them;
  - (b) the role and responsibilities of nurses and other staff;
  - (c) record keeping requirements;
  - (d) recruitment procedures; and
  - (e) training and development requirements and opportunities.

### **Provision of information to service users**

16.—(1) The registered person shall ensure that before a nurse is supplied, the service user is informed of—

- (a) the name of the nurse who is to be supplied and the means of contacting her;
- (b) the name of the member of staff of the agency who is responsible for the supply of that nurse; and
- (c) where the agency is acting as an employment business, details of how the service user may contact the registered person, or a person nominated to act on behalf of the registered person.

(2) Where the service user is also the patient, the registered person shall ensure that the information specified in paragraph (1) is, where appropriate, provided to the person acting on behalf of the patient.

### **Records**

17. The registered person shall ensure that the records specified in Schedule 4 are maintained and that they are—

- (a) kept up to date, in good order and in a secure manner; and
- (b) retained for a period of not less than three years beginning on the date of the last entry.

### **Complaints**

18.—(1) The registered person shall establish a procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or a person acting on behalf of the service user.

(2) The registered person shall supply a written copy of the complaints procedure to every service user and, upon request, to any person acting on behalf of a service user.

(3) The written copy of the complaints procedure shall include—

- (a) the address and telephone number of the Commission; and
- (b) the procedure (if any) which has been notified by the Commission to the registered person for making complaints to the Commission relating to the agency.

(4) The registered person shall ensure that every complaint made under the complaints procedure is fully investigated.

(5) The registered person shall, within the period of 28 days beginning on the date on which the complaint is made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the action (if any) that is to be taken in response.

(6) The registered person shall maintain a record of each complaint, including details of the investigation made, the outcome and any action taken in consequence and the requirements of regulation 17 shall apply to that record.

(7) The registered person shall supply to the Commission annually a statement containing a summary of the complaints made during the preceding twelve months and the action taken in response.

(8) The registered person shall ensure that any evidence of misconduct by a nurse is reported promptly and in writing to the Nursing and Midwifery Council<sup>(2)</sup>.

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(2) The Nursing and Midwifery Council was established by article 3 of the Nursing and Midwifery Order 2001 (S.I.2002/253).

### **Review of quality of service provision**

19.—(1) The registered person shall introduce and maintain a system for reviewing at appropriate intervals the quality of services provided by the agency.

(2) The registered person shall supply to the Commission a report in respect of any review conducted by her for the purposes of paragraph (1) and shall make a copy of the report available upon request for inspection by service users and persons acting on behalf of service users.

(3) The system referred to in paragraph (1) shall provide for consultation with service users and persons acting on behalf of service users.

## CHAPTER 2

### PREMISES

### **Fitness of premises**

20. The registered person shall not use premises for the purposes of an agency unless the premises are suitable for the purpose of achieving the aims and objectives of the agency set out in the statement of purpose.

## CHAPTER 3

### FINANCIAL MATTERS

### **Financial position**

21.—(1) The registered provider shall carry on the agency in such manner as is likely to ensure that the agency will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person shall, if the Commission so requests, provide the Commission with such information and documents as it may require in order to consider the financial viability of the agency, including—

- (a) the annual accounts of the agency certified by an accountant; and
- (b) a certificate of insurance for the registered provider in respect of liability which may be incurred by her in relation to the agency in respect of death, injury, public liability, damage or other loss.

## CHAPTER 4

### NOTICES TO BE GIVEN TO THE COMMISSION

### **Notice of absence**

22.—(1) Where—

- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
- (b) the registered manager,

proposes to be absent from the agency for a continuous period of 28 days or more, the registered person shall give notice in writing to the Commission of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than one month before the proposed absence commences or within such shorter period as may be agreed with the Commission and the notice shall specify—

- (a) the length or expected length of the absence;
- (b) the reason for the absence;

- (c) the arrangements which have been made for running the agency during that absence;
  - (d) the name, address and qualifications of the person who will be responsible for the agency during that absence; and
  - (e) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the agency during that absence, including the proposed date by which the appointment is to be made.
- (3) Where the absence arises as a result of an emergency, the registered person shall give notice of the absence within one week of its occurrence specifying the matters set out in paragraph (2)(a) to (e).
- (4) Where—
- (a) the registered provider, being an individual in full-time day to day charge of the agency; or
  - (b) the registered manager,
- has been absent from the agency for a continuous period of 28 days or more, and the Commission has not been given notice of the absence, the registered person shall, without delay, give notice in writing to the Commission of the absence, specifying the matters set out in paragraph (2)(a) to (e).
- (5) The registered person shall notify the Commission of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of her return.

### **Notice of changes**

- 23.** The registered person shall give notice in writing to the Commission as soon as it is practicable to do so if any of the following events takes place or is proposed to take place—
- (a) a person other than the registered person carries on or manages the agency;
  - (b) a person ceases to carry on or manage the agency;
  - (c) where the registered person is an individual, she changes her name;
  - (d) where the registered provider is a partnership, there is any change in the membership of the partnership;
  - (e) where the registered provider is an organisation—
    - (i) the name or address of the organisation is changed;
    - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
    - (iii) there is any change in the identity of the responsible individual;
  - (f) where the registered provider is an individual, a trustee in bankruptcy is appointed;
  - (g) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
  - (h) where the registered provider acquires additional premises for the purposes of the agency.

### **Appointment of liquidators etc.**

- 24.**—(1) Any person to whom paragraph (2) applies must—
- (a) forthwith notify the Commission of his appointment indicating the reasons for it;
  - (b) appoint a manager to take full-time day to day charge of the agency in any case where there is no registered manager; and
  - (c) not more than 28 days after his appointment, notify the Commission of his intentions regarding the future operation of the agency.

- (2) This paragraph applies to any person appointed as—
  - (a) the receiver or manager of the property of a company or partnership which is a registered provider in respect of an agency;
  - (b) the liquidator or provisional liquidator of a company which is the registered provider in respect of an agency;
  - (c) the trustee in bankruptcy of a registered provider in respect of an agency.

**Death of registered person**

**25.**—(1) If more than one person is registered in respect of an agency, and a registered person dies, the surviving registered person shall without delay notify the Commission of the death in writing.

(2) If only one person is registered in respect of an agency, and she dies her personal representatives must notify the Commission in writing—

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the agency.

(3) The personal representatives of the deceased registered provider may carry on the agency without being registered in respect of it—

- (a) for a period not exceeding 28 days; and
- (b) for any further period as may be determined in accordance with paragraph (4).

(4) The Commission may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Commission shall determine, and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to take full-time day to day charge of the agency during any period in which, in accordance with paragraph (3), they carry on the agency without being registered in respect of it.