
STATUTORY INSTRUMENTS

2007 No. 3491

**The National Health Service (Primary Medical Services)
(Miscellaneous Amendments) Regulations 2007**

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

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(1).”, 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”;
 - (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) for paragraph 38 (prescribing), substitute—
 - “**38.** The contractor shall ensure that—
 - (a) any prescription form or repeatable prescription for drugs, medicines or appliances issued or created by a prescriber; and
 - (b) any home oxygen order form issued by a health care professional,

- complies as appropriate with the requirements in paragraphs 39, 39A and 41 to 44.”;
- (f) in paragraph 39 (which relates to prescribing)—
- (i) in sub-paragraph (1), after “Subject to” insert “sub-paragraph (1A) and to”,
 - (ii) after sub-paragraph (1), insert—
 - “(1A) A health care professional shall order any home oxygen services which are needed for the treatment of any patient who is receiving treatment under the contract by issuing a home oxygen order form.”, and
 - (iii) after sub-paragraph (3B), insert—
 - “(3C) A home oxygen order form shall be signed by a health care professional.”;
- (g) in paragraph 39A (electronic prescriptions)—
- (i) after sub-paragraph (1) insert—
 - “(1A) A health care professional may not order home oxygen services by means of an electronic prescription.”,
 - (ii) in sub-paragraph (2), for “an adult incapable of nominating a dispenser”, substitute “an adult who lacks the capacity to nominate a dispenser”, and
 - (iii) for sub-paragraph (2)(b), substitute—
 - “in the case of an adult, that patient’s relative, primary carer, 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.”;
- (h) for paragraph 66(2)(b) (which relates to signing of documents), substitute—
- “(b) any other clinical documents, apart from—
 - (i) home oxygen order forms, and
 - (ii) those documents specified in sub-paragraph (3).”;
- (i) in paragraph 93(b) (which relates to the making of complaints), for “is incapable of making a complaint”, substitute “lacks the capacity to make a complaint”;
- (j) in paragraph 113(2)(j)(ii) (which relates to other grounds for termination by the Primary Care Trust), after “Insolvency Act 1986” insert “or Schedule 2A to the Insolvency (Northern Ireland) Order 1989”;
- (k) in paragraphs 115(1) and (5) (which relate to termination by the Primary Care Trust: remedial notices and breach notices), for “specified in paragraphs 111 to 114” substitute “specified in paragraphs 111 to 114A”;
- (l) in paragraph 120(1) (which relates to consultation with the Local Medical Committee), for sub-paragraphs (a) and (b) substitute—
- “(a) terminating the contract pursuant to paragraph 112, 113, 114, 115(4) or (6) or 116;
 - (b) which of the alternative notices in writing available under the provisions of paragraph 114A it will serve; or
 - (c) imposing a contract sanction.”;
- (m) in paragraph 121(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”; and
- (n) after paragraph 121 (clinical governance), insert the following—

“**121A.** The contractor shall co-operate with the Primary Care Trust in the discharge of any obligations of the Primary Care Trust or its accountable officer under the Controlled Drugs (Supervision of Management and Use) Regulations 2006**(2)**.”.