

2018 No. 844

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (General Medical Services
Contracts and Personal Medical Services Agreements)
(Amendment) Regulations 2018**

<i>Made</i> - - - -	<i>11th July 2018</i>
<i>Laid before Parliament</i>	<i>16th July 2018</i>
<i>Coming into force</i> - -	<i>1st October 2018</i>

The Secretary of State for Health and Social Care, in exercise of the powers conferred by sections 85(1), 89(1), (2)(a) and (3)(c), 94(1) and (8)(c) and 272(7) and (8) of the National Health Service Act 2006(a), makes the following Regulations:

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2018.

(2) They come into force on 1st October 2018.

(3) In these Regulations—

- (a) “the GMS Contracts Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2015(b); and
- (b) “the PMS Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2015(c).

(a) 2006 c.41. The National Health Service Act 2006 (“the Act”) was amended by the Health and Social Care Act 2012 (c.7) and relevant amendments to section 89 were made by section 202(2). There are no relevant amendments to section 94. *See* section 275(1) of the Act for the meaning given to “prescribed” and “regulations”. The powers exercised in making these Regulations are exercisable by the Secretary of State in relation to England only by virtue of section 271(1) of the Act.

(b) S.I. 2015/1862, as amended by S.I. 2016/211, 481, 696, 875 and 1077 and 2017/908.

(c) S.I. 2015/1879, as amended by S.I. 2016/211, 481, 696, 875 and 1077 and 2017/908.

PART 2

Amendment of the GMS Contracts Regulations

Amendment of regulation 3 of the GMS Contracts Regulations

2. In regulation 3 of the GMS Contracts Regulations (interpretation)(a)—
- (a) after the definition of “out of hours services” insert—
- ““paramedic independent prescriber” means a person—
- (a) who is either engaged or employed by the contractor or who is a party to the contract;
- (b) who is registered in the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register)(b); and
- (c) against whose name in that register is recorded an annotation signifying that that person is qualified to order drugs, medicines or appliances as a paramedic independent prescriber;”;
- (b) for the definition of “prescriber” substitute—
- ““prescriber” means—
- (a) a chiropodist or podiatrist independent prescriber;
- (b) an independent nurse prescriber;
- (c) a medical practitioner;
- (d) an optometrist independent prescriber;
- (e) a paramedic independent prescriber;
- (f) a pharmacist independent prescriber;
- (g) a physiotherapist independent prescriber;
- (h) a supplementary prescriber; and
- (i) a therapeutic radiographer independent prescriber;”;
- (c) in the definition of “relevant register”, for paragraph (d)(i) to (iii) substitute—
- “(i) chiropodists and podiatrists,
- (ii) paramedics,
- (iii) physiotherapists, or
- (iv) radiographers;”;
- (d) in the definition of “supplementary prescriber”, for paragraph (b)(iv) substitute—
- “(iv) the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to—
- (aa) chiropodists and podiatrists,
- (bb) dieticians,
- (cc) paramedics,
- (dd) physiotherapists, or
- (ee) radiographers, or”.

(a) Relevant amendments to regulation 3 were made by S.I. 2016/1077.

(b) S.I. 2002/254.

Amendment of regulation 18 of the GMS Contracts Regulations

3. In regulation 18 of the GMS Contracts Regulations (out of hours services)—
- (a) in paragraph (2)(b)(i), for “the document entitled “National Quality Requirements in the Delivery of Out of Hours Services” published on 20th July 2006” substitute “the Integrated Urgent Care Key Performance Indicators published on 25th June 2018”(a);
 - (b) in paragraph (3)(a), for “National Quality Standards” substitute “Integrated Urgent Care Key Performance Indicators”; and
 - (c) in paragraph (3)(c)(ii), for “National Quality Standards” substitute “Integrated Urgent Care Key Performance Indicators”.

Amendment of regulation 71 of the GMS Contracts Regulations

4. In regulation 71 of the GMS Contracts Regulations (patient online services), omit paragraph (7).

Insertion of new regulation 71A into the GMS Contracts Regulations

5. After regulation 71 of the GMS Contracts Regulations (patient online services) insert—

“Patient access to online services

71A.—(1) This regulation applies to any contractor which has less than ten per cent of its registered patients registered with the contractor’s practice to use the online services which the contractor is required under regulation 71 to promote and offer to its registered patients (“patient online services”).

(2) A contractor to which this regulation applies must agree a plan with the Board aimed at increasing the percentage of the contractor’s registered patients who are registered with the contractor’s practice to use patient online services.”.

Amendment of paragraph 7A of Schedule 3 to the GMS Contracts Regulations

6. In Schedule 3 to the GMS Contracts Regulations (other contractual terms), in paragraph 7A(1) (patients living with frailty)(b), after “must take steps” insert “each year”.

Insertion of new paragraph 11A into Schedule 3 to the GMS Contracts Regulations

7. In Schedule 3 to the GMS Contracts Regulations (other contractual terms)(c), after paragraph 11 (patients aged 75 and over: accountable GP), insert—

“NHS e-Referral Service (e-RS)

11A.—(1) Except in the case of a contractor to which sub-paragraph (2) or (3) applies, a contractor must require the use in its practice premises of the system for electronic referrals known as the NHS e-Referral Service (“e-RS”) in respect of each referral of any of its registered patients to a first consultant-led out-patient appointment for medical services under the Act in respect of which the facility to use e-RS is available.

(2) This sub-paragraph applies to a contractor which does not yet have e-RS in place for use in the contractor’s practice premises.

(3) This sub-paragraph applies to a contractor which—

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- (a) The Integrated Urgent Care Key Performance Indicators, published on 25th June 2018, are available at: <https://www.england.nhs.uk/wp-content/uploads/2018/06/integrated-urgent-care-key-performance-indicators.pdf>. Further information or hard copies may be requested from NHS England, PO Box 16738, Redditch, B97 7PT.
 - (b) Paragraph 7A of Schedule 3 was inserted by regulation 3 of S.I. 2017/908.
 - (c) There are no relevant amendments to Schedule 3.

- (a) is experiencing technical or other practical difficulties which are preventing the use, or effective use, of e-RS in its practice premises; and
- (b) has notified the Board that this is the case.

(4) A contractor to which sub-paragraph (2) applies must require the use in its practice premises of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as the contractor has e-RS in place for use in its practice premises.

(5) A contractor to which sub-paragraph (3) applies—

- (a) must ensure that a plan is agreed between the contractor’s practice and the Board for resolving the technical or other practical difficulties which are preventing the use, or effective use, of e-RS in the contractor’s practice premises; and
- (b) must require the use in its practice premises of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as those technical or other practical difficulties have been resolved to the satisfaction of the Board.”.

Amendment of paragraph 25 of Schedule 3 to the GMS Contracts Regulations

8. In Schedule 3 to the GMS Contracts Regulations (other contractual terms), in paragraph 25 (removal from the list of patients who are violent)—

(a) after sub-paragraph (1) insert—

“(1A) Where a contractor—

- (a) accepts a person onto its list of patients; and
- (b) subsequently becomes aware that the person has previously been removed from the list of patients of another provider of primary medical services—
 - (i) because the person committed an act of violence against any of the persons specified in sub-paragraph (2) (as read with sub-paragraph (2A)) or behaved in such a way that any of those persons feared for their safety; and
 - (ii) the other provider of primary medical services reported the incident to the police,

the contractor may give notice to the Board in accordance with sub-paragraph (3) that it wants to have the person removed from its list of patients with immediate effect.”;

(b) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (1A), any reference to “the contractor” in sub-paragraph (2) is to be read as a reference to the other provider of primary medical services referred to in sub-paragraph (1A), and sub-paragraph (2) is to be construed accordingly.”; and

(c) in sub-paragraphs (3), (4) and (5), for “sub-paragraph (1)” in each place where it appears, substitute “sub-paragraph (1) or (1A)”.

PART 3

Amendment of the PMS Agreements Regulations

Amendment of regulation 3 of the PMS Agreements Regulations

9. In regulation 3 of the PMS Agreements Regulations (interpretation)(a)—

(a) Relevant amendments to regulation 3 were made by S.I. 2016/1077.

- (a) after the definition of “out of hours services” insert—
 - ““paramedic independent prescriber” means a person—
 - (a) who is either engaged or employed by the contractor or who is a party to the agreement;
 - (b) who is registered in the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register)(a); and
 - (c) against whose name in that register is recorded an annotation signifying that that person is qualified to order drugs, medicines or appliances as a paramedic independent prescriber;”;
- (b) for the definition of “prescriber” substitute—
 - ““prescriber” means—
 - (a) a chiropodist or podiatrist independent prescriber;
 - (b) an independent nurse prescriber;
 - (c) a medical practitioner;
 - (d) an optometrist independent prescriber;
 - (e) a paramedic independent prescriber;
 - (f) a pharmacist independent prescriber;
 - (g) a physiotherapist independent prescriber;
 - (h) a supplementary prescriber; and
 - (i) a therapeutic radiographer independent prescriber;”;
- (c) in the definition of “relevant register”, for paragraph (d)(i) to (iii) substitute—
 - “(i) chiropodists and podiatrists,
 - (ii) paramedics,
 - (iii) physiotherapists, or
 - (iv) radiographers;”;
- (d) in the definition of “supplementary prescriber”, for paragraph (b)(iv) substitute—
 - “(iv) the register maintained by the Health and Care Professions Council under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register) relating to—
 - (aa) chiropodists and podiatrists,
 - (bb) dieticians,
 - (cc) paramedics,
 - (dd) physiotherapists, or
 - (ee) radiographers, or”.

Amendment of regulation 22 of the PMS Agreements Regulations

10. In regulation 22 of the PMS Agreements Regulations (out of hours services)—

- (a) in paragraph (4)(a), for “the document entitled “National Quality Requirements in the Delivery of Out of Hours Services” published on 29th July 2006”, substitute “the Integrated Urgent Care Key Performance Indicators published on 25th June 2018”(b);

(a) S.I. 2002/254.

(b) The Integrated Urgent Care Key Performance Indicators, published on 25th June 2018, are available at: <https://www.england.nhs.uk/wp-content/uploads/2018/06/integrated-urgent-care-key-performance-indicators.pdf>. Further information or hard copies may be requested from NHS England, PO Box 16738, Redditch, B97 7PT.

- (b) in paragraph (5)(a), for “National Quality Standards” substitute “Integrated Urgent Care Key Performance Indicators”; and
- (c) in paragraph (5)(c)(ii), for “National Quality Standards” substitute “Integrated Urgent Care Key Performance Indicators”.

Amendment of regulation 64 of the PMS Agreements Regulations

11. In regulation 64 of the PMS Agreements Regulations (patient online services), omit paragraph (7).

Insertion of new regulation 64A into the PMS Agreements Regulations

12. After regulation 64 of the PMS Agreements Regulations (patient online services) insert—

“Patient access to online services

64A.—(1) This regulation applies to any contractor which has less than ten per cent of its registered patients registered with the contractor’s practice to use the online services which the contractor is required under regulation 64 to promote and offer to its registered patients (“patient online services”).

(2) A contractor to which this regulation applies must agree a plan with the Board aimed at increasing the percentage of the contractor’s registered patients who are registered with the contractor’s practice to use patient online services.”.

Amendment of paragraph 14A of Schedule 2 to the PMS Agreements Regulations

13. In Schedule 2 to the PMS Agreements Regulations (other contractual terms)(a), in paragraph 14A(1) (patients living with frailty)(b), after “must take steps” insert “each year”.

Insertion of new paragraph 16A into Schedule 2 to the PMS Agreements Regulations

14. In Schedule 2 to the PMS Agreements Regulations (other contractual terms), after paragraph 16 (patients aged 75 and over: accountable GP), insert—

“NHS e-Referral Service (e-RS)

16A.—(1) Except in the case of a contractor to which sub-paragraph (2) or (3) applies, a contractor must require the use in its practice premises of the system for electronic referrals known as the NHS e-Referral Service (“e-RS”) in respect of each referral of any of its registered patients to a first consultant-led out-patient appointment for medical services under the Act in respect of which the facility to use e-RS is available.

(2) This sub-paragraph applies to a contractor which does not yet have e-RS in place for use in the contractor’s practice premises.

(3) This sub-paragraph applies to a contractor which—

- (a) is experiencing technical or other practical difficulties which are preventing the use, or effective use, of e-RS in its practice premises; and
- (b) has notified the Board that this is the case.

(4) A contractor to which sub-paragraph (2) applies must require the use in its practice premises of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as the contractor has e-RS in place for use in its practice premises.

(a) There are no relevant amendments to Schedule 2.

(b) Paragraph 14A of Schedule 2 was inserted by regulation 7 of S.I. 2017/908.

- (5) A contractor to which sub-paragraph (3) applies—
- (a) must ensure that a plan is agreed between the contractor’s practice and the Board for resolving the technical or other practical difficulties which are preventing the use, or effective use, of e-RS in the contractor’s practice premises; and
 - (b) must require the use in its practice premises of alternative means of referring its registered patients to a first consultant-led out-patient appointment for medical services under the Act until such time as those technical or other practical difficulties have been resolved to the satisfaction of the Board.”.

Amendment of paragraph 24 of Schedule 2 to the PMS Agreements Regulations

15. In Schedule 2 to the PMS Agreements Regulations (other contractual terms), in paragraph 24 (removal from the list of patients who are violent)—

- (a) after sub-paragraph (1) insert—

“(1A) Where a contractor—

- (a) accepts a person onto its list of patients; and
- (b) subsequently becomes aware that the person has previously been removed from the list of patients of another provider of primary medical services—
 - (i) because the person committed an act of violence against any of the persons specified in sub-paragraph (2) (as read with sub-paragraph (2A)) or behaved in such a way that any of those persons feared for their safety; and
 - (ii) the other provider of primary medical services reported the incident to the police,

the contractor may give notice to the Board in accordance with sub-paragraph (3) that it wants to have the person removed from its list of patients with immediate effect.”;

- (b) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (1A), any reference to “the contractor” in sub-paragraph (2) is to be read as a reference to the other provider of primary medical services referred to in sub-paragraph (1A), and sub-paragraph (2) is to be construed accordingly.”; and

- (c) in sub-paragraphs (3), (4) and (5), for “sub-paragraph (1)” in each place where it appears, substitute “sub-paragraph (1) or (1A)”.

Signed by the authority of the Secretary of State for Health and Social Care.

11th July 2018

Steve Brine
Parliamentary Under-Secretary of State,
Department of Health and Social Care

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862) (“the GMS Contracts Regulations”) and the National Health Service (Personal Medical Services Agreements) Regulations 2015 (S.I. 2015/1879) (“the PMS Agreements Regulations”) which make provision in respect of the services provided under a general medical services contract and a personal medical services agreement made pursuant to Part 4 of the National Health Service Act 2006 (c.41) (medical services). They apply to England only.

Part 2 of the Regulations amends the GMS Contracts Regulations.

Regulation 2 inserts a new definition of “paramedic independent prescriber” into regulation 3 and also makes consequential amendments to the definitions of “prescriber”, “relevant register” and “supplementary prescriber” so as to include references to a paramedic independent prescriber in those definitions.

Regulation 3 amends regulation 18 to include a reference to the new quality standards which apply in respect of the delivery of out of hours services by a contractor. The new quality standards are contained in the Integrated Urgent Care Key Performance Indicators which replace the National Quality Standards for the Delivery of Out of Hours Services.

Regulation 4 omits paragraph (7) of regulation 71 as this provision is now obsolete.

Regulation 5 inserts a new regulation 71A aimed at securing an increase in the percentage of patient access to online services. Contractors which have less than ten per cent of their registered patients registered with the contractor’s practice to use patient online services must agree a plan with the National Health Service Commissioning Board (“the Board”) aimed at increasing the percentage of patient access to those services.

Regulation 6 makes a minor amendment to paragraph 7A of Schedule 3 which makes clear that the requirement on contractors to take steps to identify patients aged 65 or over living with moderate to severe frailty is an annual one.

Regulation 7 inserts a new paragraph 11A into Schedule 3 which imposes a requirement on contractors to use the NHS e-Referral Service (“e-RS”) in respect of the referral of any registered patient to a first consultant-led out-patient appointment for medical services under the National Health Service Act 2006 in respect of which the ability to use that facility is available. Contractors must require the use of alternative means of making such referrals in their practice premises if they do not yet have e-RS in place in those premises or where they are experiencing technical or other practical difficulties in using e-RS effectively in those premises and have notified the Board of that fact.

Regulation 8 amends paragraph 25 of Schedule 3 to allow a contractor to remove a person from its list of patients where the contractor becomes aware, after accepting the person onto that list, that the person has committed an act of violence against specified persons and has previously been removed from the list of patients of another provider of primary medical services on that basis.

Part 3 of the Regulations makes amendments to the PMS Agreements Regulations which are similar in effect to the amendments made to the GMS Contracts Regulations by regulations 2 to 8 in Part 2.

Regulation 9 inserts a new definition of “paramedic independent prescriber” in regulation 3 and makes consequential amendments to certain other definitions in that regulation.

Regulation 10 amends regulation 22 to include a reference to the new quality standards which apply in respect of the delivery of out of hours services by a contractor.

Regulation 11 omits paragraph (7) of regulation 64 as this provision is now obsolete.

Regulation 12 inserts new regulation 64A, which makes similar provision, in respect of patient access to online services, to new regulation 71A of the GMS Contracts Regulations as inserted by regulation 5 in Part 2.

Regulation 13 makes a minor amendment to paragraph 14A of Schedule 2 which makes clear that contractors are required to conduct a frailty assessment of their registered patients aged 65 and over on an annual basis.

Regulation 14 inserts a new paragraph 16A into Schedule 2, which makes similar provision, in respect of the requirement on contractors to use e-RS, to new paragraph 11A of Schedule 3 to the GMS Contracts Regulations as inserted by regulation 7 in Part 2.

Regulation 15 makes amendments to paragraph 24 of Schedule 2, similar to those made to paragraph 25 of Schedule 3 to the GMS Contracts Regulations by regulation 8 in Part 2, to enable

the removal from the contractor's list of patients, of patients who have previously been removed from the list of patients of another provider of primary medical services in specified circumstances.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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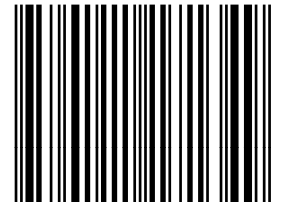
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£6.90

UK201807121010 07/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/844>

ISBN 978-0-11-117134-9



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