
OFFERYNNAU STATUDOL CYMRU

2002 No. 1881

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Deintyddol Cyffredinol) (Diwygio) (Cymru) (Rhif 2) 2002

Mewnosod rheoliadau 8A i 8H

7. Ar ôl rheoliad 8 (tynnu enw oddi ar restr ddeintyddol) mewnosodwch y rheoliadau canlynol—

“Supplementary matters relating to removal

8A. In addition to the services covered by the definition of “health scheme” in section 49F(8) of the Act, the following shall also be health schemes—

- (a) health services, including dental treatment, provided by Her Majesty’s Forces;
- (b) services provided by Port Health Authorities constituted under the Public Health (Control of Disease) Act 1984(1);
- (c) health services provided to a prisoner in the care of the medical officer or such other officer of a prison appointed for the purposes of section 7 of the Prison Act 1952(2);
- (d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.

Criteria for decisions on removal

8B.—(1) Where a Health Authority are considering whether to remove a dentist from a list using the power in section 49F(4) of the Act they shall in particular take into account information from the dentist supplied under paragraph 31H of Schedule 1 and the criteria set out in paragraph (2).

- (2) The criteria referred to in paragraph (1) are—
 - (a) the nature of any criminal offence, investigation or incident;
 - (b) the length of time since any such offence was committed or incident occurred and since any criminal conviction or investigation;
 - (c) whether there are other criminal offences to be considered;
 - (d) the penalty imposed following any criminal conviction or the outcome of any investigation;
 - (e) the relevance of any criminal offence or investigation into the dentist’s professional conduct on the provision by the dentist of general dental services and the likely risk to patients;
 - (f) whether any criminal offence was a sexual offence to which Part I of the Sexual Offences Act 1997(3) applies; and

(1) 1984 p.22.
(2) 1952 p.52.
(3) 1997 p.51.

- (g) whether the dentist has been refused admittance to, conditionally included in, contingently removed, removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, what the facts were in those cases and what reasons were given by the Health Authority or equivalent body in the case.

(3) Where a Health Authority are considering removal of a dentist from a list under section 49F(3) of the Act, they shall in particular take into account information from the dentist supplied under paragraph 31H(1) and (2) of Schedule 1 and the criteria set out in paragraph (4) below.

(4) The criteria referred to in paragraph (3) are—

- (a) the nature of any incidents of a fraud case;
- (b) the length of time since any incident occurred, and since the investigation was concluded;
- (c) whether there are other incidents of fraud cases or other criminal offences to be considered;
- (d) any action taken by any licensing or regulatory body, the police or the courts as a result of the incident;
- (e) the relevance of the investigation to the provision by the dentist of general dental services and the likely risk to patients or to public finances; and
- (f) whether the dentist has been refused admittance to, conditionally included, removed, contingently removed or currently suspended from other Health Authority lists or equivalent lists and if so, what the facts were in those cases and what were the reasons given by the Health Authority or equivalent body in the case.

(5) Where a Health Authority are considering removal of a dentist under section 49F(2) of the Act they shall, in particular, take into account information from the dentist supplied under paragraph 3H(1) and (2) of Schedule 1 and the criteria set out in paragraph (6) below.

(6) The criteria referred to in paragraph (5) are—

- (a) whether the continued inclusion in the list of the dentist would be prejudicial to the efficiency of the general dental services provided by the dentist;
- (b) the length of time since any incident occurred, and since the investigation was concluded;
- (c) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such incident;
- (d) the nature of the incident and whether there is a likely risk to patients;
- (e) whether the dentist has previously failed to make a declaration or to comply with an undertaking required by these Regulations;
- (f) whether the dentist has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, what the facts were in those cases and what reasons were given by the Health Authority or equivalent body in the case.

(7) In making any decision under section 49F of the Act, the Health Authority shall take into account the effect of all relevant incidents and offences relating to the dentist of which they are aware, whichever condition they rely on.

(8) When making a decision on any condition in section 49F of the Act, the Health Authority shall state in their decision on which condition (or conditions) in section 49F they rely.

Cases where the Health Authority must remove a dentist

8C.—(1) The Health Authority must remove a dentist from their dental list where they become aware that the dentist—

- (a) has been convicted in the United Kingdom of murder;
- (b) after 30th July 2002 has been convicted in the United Kingdom of a criminal offence and has been sentenced to a term of over six months.

(2) The Health Authority shall notify the dentist immediately that the dentist has been removed from the list.

Notifications by Health Authorities

8D.—(1) Where a Health Authority—

- (a) refuse to include a dentist under regulation 5ZA;
- (b) remove a dentist under section 49F of the Act;
- (c) contingently remove a dentist under section 49G of the Act; or
- (d) suspend a dentist under section 49I or 49J of the Act,

they shall notify the persons or bodies listed in paragraph (2), and shall notify those listed in paragraph (3) if so requested, of the matters set out in paragraph (4).

(2) Where paragraph (1) applies, a Health Authority shall notify—

- (a) the National Assembly for Wales;
- (b) any Health Authority in Wales that has the dentist on any of their lists, or is considering an application for inclusion in any of their lists by such a dentist;
- (c) the Scottish Executive;
- (d) the Secretary of State;
- (e) the Northern Ireland Executive;
- (f) the General Dental Council or any other appropriate regulatory body;
- (g) the Dental Practice Board;
- (h) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the dentist in a professional capacity;
- (i) where it is a fraud case, the National Health Service Counter Fraud Service.

(3) Where paragraph (1) applies, the Health Authority shall notify any body that can establish that it is considering employing the dentist in a professional capacity, if they receive a written request (including an electronic request) to do so.

(4) The matters referred to in paragraph (1) are—

- (a) identifying details of the dentist;
- (b) the dentist's professional registration number;
- (c) the date, and a copy of, the decision of the Health Authority;
- (d) a contact name of a person in the Health Authority for further enquiries.

(5) The Health Authority shall send to the dentist concerned a copy of any information about the dentist provided to the persons or bodies specified in paragraph (2) or (3) and of any associated correspondence with those persons or bodies.

(6) Where a Health Authority have notified any of the persons or bodies mentioned in paragraph (2) or (3) of the matters set out in paragraph (4), they may in addition, if

so requested by that person or body, notify that person or body of any evidence that was considered, including representations made by the dentist.

(7) Where a Health Authority are notified by the FHSAA that it has imposed a national disqualification on a dentist whom the Health Authority have removed from their list, they shall notify the persons or bodies mentioned in paragraph (2)(b), (g), (h) and (i) and paragraph (3).

(8) Where a decision is changed on review or appeal, or a suspension lapses, the Health Authority shall notify any person or body that was notified of the original decision of the new facts.

Procedure on removal

8E.—(1) Where a Health Authority are considering, in relation to the dental list—

- (a) removing a dentist under section 49F of the Act (other than in cases specified in regulation 8C),
- (b) contingently removing a dentist under section 49G of the Act, or
- (c) removing a dentist for breach of a condition imposed by regulation 5ZD,

they shall follow the procedure set out in paragraphs (3) to (8) below.

(2) Where a Health Authority are notified by the FHSAA that it has considered—

- (a) an appeal by a dentist against a contingent removal by the Health Authority and has decided to remove the dentist instead; or
- (b) an appeal by a dentist against a conditional inclusion, where the dentist has been conditionally included in the list until the appeal has been decided, and has decided not to include the dentist,

the Health Authority shall remove the dentist and shall notify the dentist immediately that they have done so.

(3) Before reaching a decision of the type mentioned in paragraph (1), the Health Authority shall—

- (a) give the dentist notice in writing of any allegation against the dentist;
- (b) give the dentist notice of what action the Health Authority are considering and on what grounds;
- (c) give the dentist the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
- (d) give the dentist the opportunity to put his or her case at an oral hearing before the Health Authority, if the dentist so requests within the 28 day period mentioned in sub-paragraph (c).

(4) If the dentist makes no representations within the period specified in paragraph (3), the Health Authority shall inform the dentist of their decision, the reasons for it (including any facts relied on), and of any right of appeal.

(5) If the dentist makes representations, the Health Authority must take them into account before reaching their decision and notifying the dentist of their decision, the reasons for it (including any facts relied on), and of any right of appeal.

(6) If the dentist requests an oral hearing, this must take place before the Health Authority reach their decision and the Health Authority must then notify the dentist of their decision, the reasons for it (including any facts relied on), and of any right of appeal.

(7) When the Health Authority notifies the dentist of any decision, they shall inform the dentist that if the dentist wishes to exercise his or her right of appeal, the dentist has 28 days from the date of the decision to do so, and tell him how to do so.

(8) The Health Authority shall also notify the dentist of the dentist's right to have the decision reviewed in accordance with section 49L of the Act.

Procedure on suspension

8F.—(1) Before reaching a decision to suspend a dentist under section 49I or 49J, the Health Authority shall—

- (a) give the dentist notice in writing of any allegation against the dentist,
- (b) give the dentist notice of the action they are considering taking and on what grounds, and
- (c) give the dentist the opportunity to put his or her case at an oral hearing before the Health Authority on a specified day, provided that at least 24 hours' notice of the hearing is given.

(2) If the dentist does not wish to have an oral hearing or does not attend the oral hearing, the Health Authority shall inform the dentist of their decision and the reasons for it (including any facts relied on).

(3) If an oral hearing takes place, the Health Authority shall take into account any representations made by the dentist before they reach their decision.

(4) The Health Authority shall notify the dentist of their decision and the reasons for it (including any facts relied on), and may suspend the dentist with immediate effect following the hearing.

Procedure on review of Health Authority decision

8G.—(1) If a Health Authority decide to review their decision to conditionally include, contingently remove, or suspend a dentist under section 49I or 49J of the Act, they shall—

- (a) notify the dentist in writing that they intend to review their decision;
- (b) notify the dentist of what action they have in mind and the reasons for it;
- (c) give the dentist the opportunity to make written representations to them within 28 days of the date of the notification given under sub-paragraph (b);
- (d) give the dentist the opportunity to put his or her case at an oral hearing before the Health Authority if the dentist requests one within the 28 day period mentioned above; and
- (e) after any hearing or on completion of the review, notify the dentist of their decision and the reasons for it (including any facts relied on).

(2) If the dentist makes representations, the Health Authority must take them into account before reaching their decision and notifying the dentist of their decision and the reasons for it (including any facts relied on).

(3) If the dentist requests an oral hearing, this must take place before the Health Authority reach their decision and the Health Authority must then notify the dentist of their decision and the reasons for it (including any facts relied on).

(4) When the Health Authority notifies the dentist of any decision, they shall inform the dentist of any right of appeal, that the dentist has 28 days from the date of the decision to exercise that right if he wishes to do so, and tell the dentist how to do so.

(5) The Health Authority shall also notify the dentist of his right to have the decision further reviewed in accordance with section 49L of the Act.

National Disqualification

8H.—(1) if on making a decision to impose a national disqualification, the FHSAA states that it is of the opinion that the criminal or professional conduct of the dentist is such that there is no realistic prospect of a further review being successful if held within the period specified in section 49N(8)(a), in which case the reference to “two years” in that provision shall be a reference to five years;

(2) if on the last review by the FHSAA of a national disqualification the dentist was unsuccessful and the FHSAA states that it is of the opinion that there is no realistic prospect of a further review being successful if held within a period of three years beginning with the date of its decision on that review, in which case the reference to “one year” in section 49N(8)(b) shall be a reference to three years;

(3) if the FHSAA states that it is of the opinion that because a criminal conviction considered by the FHSAA in reaching its decision has been quashed or the penalty reduced on appeal, there is a need for an immediate review, case the reference to “two years” or “one year” in section 49N(8) shall be a reference to the period that has already lapsed;

(4) if the FHSAA states that it is of the opinion that because a criminal conviction considered by the FHSAA in reaching its decision has been quashed or the penalty reduced on appeal, there is a need for an immediate review, in which case the reference to “two years” or “one year” in section 49N(8) shall be a reference to the period that has already lapsed;

(5) if the FHSAA is of the opinion that because the decision of a licensing or regulatory body has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” and “one year” in section 49N(8) of the Act shall be a reference to the period that has already elapsed.”.