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WELSH STATUTORY INSTRUMENTS

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**2017 No. 202**

**The Private Dentistry (Wales) Regulations 2017**

**PART 3**

**Conduct of Private Dental Practice**

**CHAPTER 1**

**Quality of Service Provision**

**Quality of treatment and other service provision**

**13.**—(1) Subject to regulation 5(4) (statement of purpose), the registered person must provide any treatment and other services to patients in accordance with the statement of purpose, and must ensure that any treatment and other services provided to each patient—

- (a) meet the patient's individual needs; and
- (b) ensure the welfare and safety of the patient.

(2) The registered person must ensure that—

- (a) all equipment used in or for the purposes of the private dental practice is safe and in good condition and suitable for the purpose for which it is to be used; and
- (b) staff are adequately trained to use any equipment (including medical devices and diagnostic systems) that they are required to use in or for the purposes of the private dental practice.

(3) Where reusable medical devices are used in a private dental practice, the registered person must ensure that—

- (a) such devices are handled safely;
- (b) appropriate procedures are implemented in relation to cleaning, disinfection, inspection, packaging, sterilisation, transportation and storage of such devices; and
- (c) appropriate arrangements are in place for promptly dealing with any device or system failure.

(4) The registered person must protect patients against the risks associated with the unsafe use and management of medicines, by—

- (a) making appropriate arrangements for the obtaining, recording, handling, using, safe keeping, dispensing, safe administration and disposal of medicines used in or for the purposes of the private dental practice;
- (b) having regard to any guidance issued by the registration authority or appropriate expert body in relation to the safe handling and use of medicines;
- (c) ensuring that dentists and dental care professionals are qualified and trained in prescribing and administering medicines within their scope of practice;
- (d) ensuring that patients and staff have access to advice and information on medicines used in or for the purposes of the private dental practice; and

- (e) ensuring that all drug-related adverse incidents are reported.
- (5) The registered person must, so far as reasonably practicable, ensure that the following persons are protected against identifiable risks of acquiring a health care-associated infection by the means specified in paragraph (6)—
  - (a) patients; and
  - (b) others who may be at risk of exposure to such an infection arising from working in or for the purposes of a private dental practice.
- (6) The means referred to in paragraph (5) are—
  - (a) the effective operation of systems designed to assess the risk of and to prevent, detect and control the spread of a health care-associated infection;
  - (b) the maintenance of appropriate standards of cleanliness and hygiene in relation to—
    - (i) premises used for the purpose of carrying on the private dental practice;
    - (ii) equipment and reusable medical devices used for the purpose of carrying on the private dental practice; and
    - (iii) materials to be used in the treatment of service users where such materials are at risk of being contaminated; and
  - (c) ensuring that an effective system is implemented for ensuring that all staff have successfully completed—
    - (i) standard health checks; and
    - (ii) additional health checks where staff will be performing exposure-prone procedures.
- (7) The registered person must have regard to current guidance published by the Welsh Ministers<sup>(1)</sup> when implementing the system referred to in paragraph (6)(c).
- (8) The registered person must take account of any advice relating to the type of treatment the private dental practice provides and to patient safety information published by recognised regulatory, professional or statutory expert bodies.
- (9) The registered person must ensure that—
  - (a) patients are provided with timely and accessible information on their condition, care, medication, treatment and support arrangements;
  - (b) patients are provided with opportunities to discuss and agree options available in relation to their medication (if any), treatment and support;
  - (c) patient information is treated confidentially; and
  - (d) valid consent is given to treatment.

### **Safeguarding patients**

- 14.—**(1) The registered person must make suitable arrangements to ensure that patients are safeguarded against the risk of abuse and improper treatment by—
- (a) ensuring that staff are made aware of the need to safeguard children and adults at risk<sup>(2)</sup> and are familiar with any national procedures for the protection of children and adults at risk;
  - (b) ensuring that staff are appropriately trained in safeguarding issues including the protection of children and adults at risk;

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(1) Guidance on health clearance for health workers is currently set out in the Welsh Health Circular WHC (2006) 86 published by the Welsh Government. This guidance is subject to amendment.

(2) “Adults at risk” has the same meaning as in section 126(1) of the Social Services and Well-being (Wales) Act 2014 (anaw 4).

- (c) ensuring that staff are aware of who to contact locally in the event of a concern relating to the protection of children and adults at risk;
  - (d) taking reasonable steps to identify the possibility of abuse and responding appropriately to any allegations of abuse; and
  - (e) ensuring that staff have access to support and up-to-date guidance in the event of a concern about the welfare and safety of a child or adult at risk.
- (2) When making the arrangements referred to in paragraph (1), the registered person must have regard to any guidance issued by the registration authority or appropriate expert body in relation to the protection of children and adults at risk.

### **Privacy, dignity and relationships**

**15.**—(1) The registered person must make suitable arrangements to ensure that the private dental practice is conducted in a manner which respects the privacy and dignity of patients.

(2) When making the arrangements referred to in paragraph (1), the registered person must have regard to the protected characteristics set out in the Equality Act 2010(3).

(3) The registered provider and the registered manager (if any) must take all reasonable steps to ensure that the private dental practice is conducted on the basis of good personal and professional relationships—

- (a) between each other;
- (b) between them and the staff members; and
- (c) between all those employed in or for the purposes of the private dental practice and the patients.

### **Assessing and monitoring the quality of service provision including annual returns**

**16.**—(1) The registered person must—

- (a) regularly assess and monitor the quality of the services provided in the carrying on of the practice against the requirements set out in these Regulations; and
- (b) identify, assess and manage risks relating to the health, welfare and safety of staff and patients.

(2) For the purposes of paragraph (1), the registered person must—

- (a) where appropriate, obtain relevant professional advice;
- (b) have regard to—
  - (i) the information contained in the records referred to in regulation 20 (records);
  - (ii) the comments and complaints made, and views (including the descriptions of their experiences of care and treatment) expressed by patients pursuant to subparagraph (c) and regulation 21 (complaints);
  - (iii) any investigation carried out by the registered person in relation to the conduct of a person employed for the purpose of carrying on the private dental practice; and
  - (iv) reports prepared by the registration authority from time to time pursuant to section 32(5) of the Act (inspections: supplementary) in relation to the private dental practice;

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(3) 2010 c. 15. The protected characteristics are set out in Chapter 1 of Part 2 of the Equality Act 2010.

- (c) regularly seek the views (including the descriptions of their experiences of care and treatment) of patients and persons who are employed in or for the purposes of the private dental practice; and
- (d) where necessary, make changes to the service delivery, treatment or care provided in order to reflect—
  - (i) the analysis of incidents that resulted in, or had the potential to result in, harm to a patient;
  - (ii) the conclusions of local and national service reviews, clinical audits and research carried out by appropriate expert bodies; and
  - (iii) the views of patients and persons who are employed in or for the purposes of the private dental practice.

(3) The registered person must send to the appropriate office of the registration authority, when requested to do so, an annual return setting out how the registered person has met the requirements of paragraph (1), together with any plans that the registered person has for improving the standard of the services, treatment and care provided to patients with a view to ensuring their health, welfare and safety.

(4) The registered person must take reasonable steps to ensure that the annual return is not misleading or inaccurate.

(5) The registered person must supply the annual return to the appropriate office of the registration authority within the time frame stipulated by the authority.

### **Staffing**

**17.—**(1) The registered person must, having regard to the nature of the private dental practice, the statement of purpose and the number and needs of patients—

- (a) ensure that at all times suitably qualified, skilled and experienced persons are working in or for the purposes of the private dental practice in such numbers as are appropriate for the health, welfare and safety of the patients; and
- (b) ensure that the employment of any persons on a temporary basis in or for the purposes of the private dental practice will not prevent patients from receiving such continuity of care as is reasonable to meet their needs.

(2) The registered person must ensure that each dentist or dental care professional working in or for the purposes of the private dental practice is registered with the General Dental Council.

(3) The registered person must ensure that each person employed in or for the purposes of the private dental practice—

- (a) receives appropriate training and supervision;
- (b) is enabled from time to time to obtain further training appropriate to their role;
- (c) is provided with a job description outlining the person's responsibilities;
- (d) has a written contract; and
- (e) has access to processes which enable them to raise, in confidence and without prejudice to their employment, concerns over any aspect of service delivery, treatment or management.

(4) The registered person must ensure that each person employed in or for the purposes of the private dental practice receives regular and appropriate appraisals and must take such steps as may be necessary to address any aspect of—

- (a) a dentist or dental care professional's clinical practice; or
- (b) the performance of a member of staff who is not a dentist or dental care professional,

which is found to be unsatisfactory.

(5) The registered person must take reasonable steps to ensure that any persons working in or for the purposes of the private dental practice who are not employed by the registered person and to whom paragraph (3) does not apply are appropriately supervised while carrying out their duties to ensure patients' health, welfare and safety are not compromised.

### **Fitness of workers**

**18.**—(1) The registered person must not—

- (a) employ under a contract of employment a person to work in or for the purposes of a private dental practice unless that person is fit to do so; or
- (b) allow any other person to work in or for the purposes of a private dental practice unless that person is fit to do so.

(2) For the purposes of paragraph (1) a person is not fit to work in or for the purposes of the private dental practice unless—

- (a) the person is registered with the General Dental Council, if they are required to do so;
- (b) the person is of suitable integrity and good character;
- (c) the person has the qualifications, skills and experience which are necessary for the work which that person is to perform;
- (d) the person is able, by reason of their health, after reasonable adjustments (if any) are made, of properly performing tasks which are intrinsic to that work; and
- (e) full and satisfactory information or documentation, as the case may be, is available in relation to the person in respect of each of the matters specified in Part 1 of Schedule 3.

(3) In assessing an individual's character for the purposes of paragraph (2)(b), the matters considered must include those listed in Part 2 of Schedule 3.

### **Guidance for dentists and dental care professionals**

**19.** The registered person must ensure that any code of ethics or professional practice prepared by the General Dental Council is made available in the private dental practice.

### **Records**

**20.**—(1) The registered person must ensure that a comprehensive dental care record which may be in paper or electronic form is maintained in relation to each patient—

- (a) which includes—
  - (i) a contemporaneous and accurate note of all assessment, treatment planning and treatment provided to the patient; and
  - (ii) the patient's dental and any relevant medical history and all other notes prepared by a dentist or dental care professional about the patient's case; and
- (b) the record is retained for a minimum period of eight years beginning on the date on which the treatment which the record refers was concluded or terminated.

(2) The registered person must ensure that—

- (a) the dental care record for a person who is currently a patient is kept in a secure place in the premises used to carry on the private dental practice; and
- (b) the dental care record for a person who is no longer a patient is stored securely (whether in the practice or elsewhere) and that it can be located if required.

(3) Where a private dental practice ceases to operate the registered person must ensure that the records maintained in accordance with paragraph (1) are kept securely elsewhere and must make them available for inspection by the registration authority at its request.

### **Complaints**

**21.**—(1) The registered person must establish and operate effectively a clear and accessible procedure (“the complaints procedure”) for considering and responding to complaints made to the registered person by a patient.

(2) The registered person must—

- (a) ensure that any complaint made under the complaints procedure is investigated;
- (b) ensure that necessary and proportionate action is taken in response to any failure identified by the complaint or investigation; and
- (c) in operating the complaints procedure, take account of the ascertainable wishes and feelings of the patient and respect the patient’s privacy as far as possible.

(3) The registered person must supply a written copy of the complaints procedure upon request to a patient and any prospective patient.

(4) The written copy of the complaints procedure must include—

- (a) the name, address and telephone number of the registration authority; and
- (b) the procedure (if any) which has been notified by the registration authority to the registered person for making complaints to the registration authority relating to the private dental practice.

(5) The registered person must maintain a record of each complaint, including details of the investigations made, the outcome and any action taken in consequence, including whether any action is necessary to improve the quality of treatment or services.

(6) The registered person must supply to the registration authority at its request, and by no later than 28 days beginning on the date after receipt of the request, copies of records maintained under paragraph (5).

## **CHAPTER 2**

### **Premises**

#### **Fitness of premises**

**22.**—(1) The registered person must not use premises to carry on a private dental practice unless those premises are of a physical design and layout which are suitable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person must ensure that—

- (a) the premises provide a clean, safe and secure environment;
- (b) the premises are of sound construction and kept in a good state of repair externally and internally; and
- (c) the size and layout of the premises are suitable for the purposes for which they are used and are suitably equipped and furnished.

(3) The registered person must provide for employees—

- (a) facilities for the purposes of changing; and
- (b) storage facilities.

(4) Subject to paragraph (5) the registered person must—

- (a) take adequate precautions against the risk of fire, including the provision and maintenance of adequate fire prevention and detection equipment;
  - (b) provide adequate means of escape in the event of a fire;
  - (c) make arrangements for persons employed in the private dental practice to receive suitable training in fire prevention;
  - (d) ensure, by means of fire drills and practices at suitable intervals, that employees of the private dental practice are aware of the procedure to be followed in case of fire;
  - (e) review fire precautions, the suitability of fire equipment and the procedure to be followed in case of fire at intervals not exceeding twelve months; and
  - (f) produce and maintain a written fire safety risk assessment.
- (5) Where the Regulatory Reform (Fire Safety) Order 2005(4) applies to the private dental practice—
- (a) paragraph (4) does not apply; and
  - (b) the registered person must ensure that the requirements of that Order, and any regulations made under it, except for article 23 (general duties of employees at work), are complied with in respect of the premises used for the purpose of providing private dental services.

## CHAPTER 3

### Management

#### **Visits by registered provider to private dental practice**

**23.**—(1) Where the registered provider is an individual who does not manage the private dental practice, that individual must visit the premises used to carry on the private dental practice in accordance with this regulation.

(2) Where the registered provider is an organisation or a partnership, the premises used to carry on the private dental practice must be visited in accordance with this regulation by—

- (a) the responsible individual;
- (b) another of the directors or, as the case may be, partners, or other persons responsible for the management of the organisation or partnership; or
- (c) an employee of the organisation who has appropriate qualifications, skills and experience for the purpose and who is not directly concerned with the conduct of the private dental practice.

(3) Visits under paragraph (1) or (2) must take place at least every twelve months and may be unannounced.

(4) The person carrying out the visit must—

- (a) interview such employees as appear to be necessary in order to form an opinion of the standard of care, treatment and other services provided in or for the purposes of the private dental practice;
- (b) inspect the premises used to carry on the private dental practice and records of any complaints; and
- (c) prepare a written report on the conduct of the private dental practice.

(5) The registered provider must supply a copy of the report required to be made under paragraph (4)(c) to—

- (a) the registered manager; and

- (b) in the case of a visit under paragraph (2)—
  - (i) where the registered provider is an organisation, to each of the directors or other persons responsible for the management of the organisation;
  - (ii) where the registered provider is a partnership, to each of the partners.
- (6) The registered provider must, if the registration authority so requests, supply it with a copy of the report required to be made under paragraph (4)(c).

### **Financial position**

**24.** The registered person must take all reasonable steps to carry on the private dental practice in such a manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in its statement of purpose.

## **CHAPTER 4**

### **Notices to be Given to the Registration Authority**

#### **Notification of events**

**25.—(1)** The registered person must give notice to the appropriate office of the registration authority, as soon as it is practicable to do so, of—

- (a) the death of, or any serious injury to, a patient—
  - (i) during treatment provided in or for the purposes of the private dental practice;
  - (ii) as a consequence of treatment provided in the private dental practice; or
  - (iii) otherwise on the premises of the private dental practice;
- (b) the outbreak of any infectious disease which in the opinion of any dentist or dental care professional working in the practice is sufficiently serious to be so notified; or
- (c) any allegation of misconduct resulting in actual or potential harm to a patient by the registered person or any person employed in or for the purposes of the private dental practice.

(2) In the case of the death of a patient, the registered person must also notify the registration authority of the date, time, cause (where known) and circumstances of the patient's death.

(3) The registered person must keep a secure written record of all events listed in sub-paragraphs (a) to (c) of paragraph (1).

#### **Notice of temporary absence of registered person**

**26.—(1)** Where—

- (a) a registered provider who manages the private dental practice; or
- (b) a registered manager,

proposes to be absent from the private dental practice for a continuous period of 28 days or more, the registered person must give notice in writing to the appropriate office of the registration authority.

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

- (a) its length or expected length;
- (b) the reason for it;
- (c) the arrangements which have been made for running the private dental practice;



- (d) the name, address and qualifications of the person who will be responsible for the private dental practice during that absence; and
- (e) the arrangements that have been or are proposed to be made for appointing another person to manage the private dental practice 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 must give notice of the absence within one week of the emergency's occurrence, specifying the matters set out in sub-paragraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) a registered provider who manages the private dental practice; or
- (b) a registered manager,

has been absent from the private dental practice for a continuous period of 90 days or more, and the appropriate office of the registration authority has not been given notice of the absence, the registered person must give notice in writing to that office, as soon as it is practicable to do so, specifying the matters set out in sub-paragraphs (a) to (e) of paragraph (2).

(5) The registered person must notify the appropriate office of the registration authority of the return to work of a person mentioned in sub-paragraph (a) or (b) of paragraph (4) not later than 7 days after the date of that person's return to work.

### **Notice of changes**

**27.**—(1) The registered person must give notice in writing to the appropriate office of the registration authority, as soon as it is practicable to do so, if any of the following events take place or are proposed to take place—

- (a) a person other than the registered person carries on or manages the private dental practice;
- (b) a person ceases to carry on or manage the private dental practice;
- (c) where the registered person is an individual, that individual changes their 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;
- (f) the responsible individual changes their name;
- (g) there is any change in the identity of the responsible individual;
- (h) where the registered provider is an individual, a trustee in bankruptcy is appointed or a composition or arrangement is made with creditors;
- (i) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (j) the premises used to carry on the private dental practice are significantly altered or extended, or additional premises are acquired which are intended to be used for the purposes of the practice.

### **Notification of offences**

**28.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in Wales or elsewhere, the person convicted must immediately give notice in writing to the appropriate office of the registration authority of—

- (a) the date and place of the conviction;
- (b) the offence of which the person was convicted; and
- (c) the penalty imposed on the person in respect of the offence.

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

**29.**—(1) Any person to whom paragraph (2) applies must—

- (a) give notice in writing to the appropriate office of the registration authority of the person's appointment indicating the reasons for it;
- (b) appoint a manager to take full-time day to day charge of the private dental practice in any case where the duty under regulation 10(1) is not being met; and
- (c) before the end of the period of 28 days beginning on the date of the person's appointment, notify the appropriate office of the registration authority of the person's intentions regarding the future operation of the private dental practice to which the appointment relates.

(2) This paragraph applies to any person appointed as—

- (a) the receiver or manager of the property of an organisation which is a registered provider of a private dental practice;
- (b) a liquidator or provisional liquidator of a company which is the registered provider of a private dental practice;
- (c) the trustee in bankruptcy of a registered provider of a private dental practice.

### **Death of a registered person**

**30.**—(1) If more than one person is registered in respect of a private dental practice, and a registered person dies, any surviving registered person must give notice of the death in writing to the appropriate office of the registration authority, as soon as it is practicable to do so.

(2) If only one person is registered in respect of a private dental practice, and the person dies, the person's personal representatives must—

- (a) give notice of the death in writing to the appropriate office of the registration authority, as soon as it is practicable to do so; and
- (b) give notice to that authority of their intentions regarding the future running of the private dental practice, within 28 days of the death.

(3) The personal representatives of the deceased registered provider may carry on the private dental practice 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 by the registration authority in accordance with paragraph (4).

(4) The registration authority may extend the period specified in paragraph (3)(a) by such further period, not exceeding six months, as the registration authority may determine, and must notify any such determination to the personal representatives in writing.

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

(6) The provisions of regulation 11 apply to a manager appointed in accordance with paragraph (5).

(7) Where the registration authority receives an application for registration as provider in respect of the private dental practice referred to in paragraph (1), the six months referred to in paragraph (4) may be extended by a period not exceeding six months as the registration authority may determine.