

NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

HEALTH BOARD DIRECT PROVISION OF PRIMARY MEDICAL SERVICES (SCOTLAND) (No 2) DIRECTIONS 2011

The Scottish Ministers give the following Directions in exercise of the powers conferred by sections 2(5) and 105(7) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

PART 1 GENERAL

Citation, commencement and scope

1. - (1) These Directions may be cited as the Health Board Direct Provision of Primary Medical Services (Scotland) (No.2) Directions 2011 and come into force on 1 November 2011.

(2) Subject to sub-paragraph (3), these Directions apply where a Health Board wishes to establish one or more practices for the purposes of providing primary medical services pursuant to section 2C of the Act.

(3) These Directions do not apply where a Health Board wishes to establish one or more practices for the purposes of providing primary medical services to prisoners in prisons pursuant to section 2C of the Act.

Interpretation

2. In these Directions—

“the Act” means the National Health Service (Scotland) Act 1978;

“additional services” has the same meaning as in the GMS Contracts Regulations;

“advanced electronic signature” means an electronic signature which is-

(a) uniquely linked to the signatory;

(b) capable of identifying the signatory;

(c) created using means that the signatory can maintain under his or her sole control; and

(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

“computerised records” means records created by way of entries on a computer;

“core hours” has the same meaning as in the Section 17C Agreements Regulations

“electronic communication” has the same meaning as in section 15 of the Electronic Communications Act 2000;

“essential services” means the services described in regulation 15(3), (5), (7) and (8) of the GMS Contracts Regulations provided during core hours, or services that are equivalent to those services;

“the GMS Contracts Regulations” means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (b);

“general medical practitioner” has the same meaning as in the Section 17C Agreements Regulations;

“GP Registrar” has the same meaning as in the Section 17C Agreements Regulations(a);

(a) 1978 c.29. Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1), Schedule 9, paragraph 19(1); section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 29(1) Schedule 9, paragraph 24 and the Health Act 1999 (c.8), Schedule 4, paragraph 60. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2004/115.

“Health Board”, unless the context otherwise requires, means the Health Board that has established the practice;

“Healthcare Improvement Scotland” means the body established under section 10A of the 1978 Act**(b)**;

“health care professional” has the same meaning as in section 17CA(8)(c) of the Act and “health care profession” shall be construed accordingly;

“independent nurse prescriber” means a person-

- (a) who is either engaged or employed by the Health Board for the purposes of the practice; and
- (b) who is registered in the Nursing and Midwifery Register; and
- (c) against whose name is recorded in that register an annotation signifying that he or she is qualified to order drugs, medicines and appliances as a community practitioner nurse prescriber, a nurse independent prescriber or a nurse independent/supplementary prescriber;

“medical officer” means a medical practitioner who is-

- (i) employed or engaged by the Department for Work and Pensions, or
- (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;

“normal hours” means those days and hours on which and the times at which services are normally to be made available and may be different for different services;

“out of hours period” means

- (a) the period beginning at 6.30 p.m. on any day from Monday to Thursday and ending at 8 a.m. on the following day;
- (b) the period between 6.30 p.m. on Friday and 8 a.m. on the following Monday; and
- (c) Christmas Day, New Year’s Day and any public or local holiday;

“out of hours services” means services provided in all or part of the out of hours period which would be essential services or additional services if provided in core hours;

“patient”, except where the context otherwise requires, means—

- (a) a registered patient,
- (b) a temporary resident,
- (c) persons to whom the practice is required to provide immediately necessary treatment, and
- (d) any other person to whom the practice is to provide treatment in accordance with the practice statement;

“pharmacist independent prescriber” means a person-

- (a) who is registered in Part 1 of the register maintained under article 19 of the Pharmacy Order 2010**(d)** or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976**(e)**; and
- (b) against whose name in the relevant register is recorded an annotation signifying that he or she is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;

“practice” means a practice established by a Health Board for the purposes of its provision of primary medical services under section 2C(1) of the Act**(f)**;

“practice’s list of patients” means the list maintained in respect of a practice by the Health Board under direction 11;

“practice premises” means the premises specified in the practice statement;

“practice statement” means the statement prepared pursuant to direction 3;

“prescriber” means-

- (a) a medical practitioner;
- (b) an independent nurse prescriber;
- (c) a supplementary prescriber; and
- (d) a pharmacist independent prescriber

who is either engaged or employed by the Health Board for the purposes of the practice;

(a) As substituted by S.S.I. 2010/234, schedule 3.

(b) Section 10A was inserted by Public Services Reform (Scotland) Act 2010 (asp 8), section 108.

(c) Section 17CA was inserted by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), section 38.

(d) S.I. 2010/231

(e) 1976 No. 1231 (N.I. 22)

(f) Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2).

“prescription form” means -

- (a) a form provided by the Health Board and issued by a prescriber; or
- (b) data that are created in an electronic form and which are signed with a prescriber’s advanced electronic signature and transmitted as an electronic communication through the e-Pharmacy service, to enable a person to obtain pharmaceutical services;

“Primary Care trust” means a Primary Care trust established under section 18 of the National Health Service Act 2006 (primary care trusts)(**a**);

“primary medical services performers list” has the same meaning as in the Section 17C Agreements Regulations;

“relevant register” means-

- (a) in relation to a nurse, the Nursing and Midwifery Register; and
- (b) in relation to a pharmacist, Part 1 of the register maintained under article 19 of the Pharmacy Order 2010 or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976;

“registered patient” means-

- (a) a person who is recorded by the Health Board as being on the practice’s list of patients; or
- (b) a person whom the practice has accepted for inclusion on the practice’s list of patients;

“supplementary prescriber” means a person -

who is either engaged or employed by the Health Board for the purposes of the practice; and whose name is registered in-

- (a) the Nursing and Midwifery Register;
- (b) Part 1 of the register maintained under article 19 of the Pharmacy Order 2010,
- (c) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976, or
- (d) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**b**) relating to-
 - (i) chiropodists and podiatrists;
 - (ii) physiotherapists; or
 - (iii) diagnostic or therapeutic radiographers; or
- (e) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989(**c**),

and against whose name is recorded in the relevant register an annotation signifying that that person is qualified to order drugs medicines and appliances as a supplementary prescriber or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber;

“Section 17C Agreements Regulations” means the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(**d**); and

“temporary resident” means a person accepted by a practice as a temporary resident pursuant to the requirements of the practice statement and for whom the practice’s responsibility has not been terminated in accordance with the procedure specified in that statement.

(a) 2006 c.41.

(b) S.I. 2002/254. Article 5 was amended by S.I. 2009/1182, Schedule 2, paragraph 2.

(c) 1989 c.44. Section 7 was amended by S.I. 2005/848, article 7.

(d) S.S.I. 2004/116.

Practice statements

3.—(1) Where a Health Board wishes to establish one or more practices for the purposes of providing primary medical services pursuant to section 2C(1) of the Act, it shall in respect of each practice prepare a practice statement which sets out—

- (a) the services to be provided;
- (b) the address of each of the practice premises to be used for the provision of such services;
- (c) to whom the practice is to provide services, including, where appropriate, by reference to an area within which a person resident would be entitled to receive services from the practice;
- (d) if the practice is to provide essential services—
 - (i) the procedure (if any) by which a person—
 - (aa) applies for inclusion in;
 - (bb) is accepted for inclusion in;
 - (cc) is refused inclusion in; or
 - (dd) is removed from,

the practice's list of patients prepared by the Health Board in accordance with direction 11, and

- (ii) the circumstances in which and the procedure (if any) by which—
 - (aa) a patient can be accepted as a temporary resident by the practice; and
 - (bb) responsibility for a patient accepted as a temporary resident can be terminated;
- (e) the alternative procedure (if any) by which a person can receive primary medical services from the practice, other than as a registered patient or a temporary resident;
- (f) the circumstances in which, and the procedure by which (if any), the Health Board may assign patients to the practice;
- (g) where applicable, the status of the practice's list of patients, namely whether that list is open or closed to applications from patients for inclusion in its list, and in what circumstances the status of the list may change; and
- (h) such further details and requirements in relation to the administration and running of the practice as the Health Board considers appropriate.

(2) The Health Board shall ensure that—

- (a) the practice operates in accordance with the requirements and procedures specified in the practice statement; and
- (b) the practice statement is amended, as necessary, to reflect any changes to the matters specified in paragraph (1)(a) to (h).

(3). A practice may, in particular, consist of—

- (a) one or more employees of the Health Board;
- (b) one or more health care professionals providing services to the Health Board under a contract for services; or
- (c) a combination of sub-paragraphs (a) and (b).

Amendments to the practice statement

4. Where the practice statement is amended pursuant to direction 3(2)(b) and, as a result of that amendment, there is to be a change in the range of services provided to the practice's patients, the Health Board shall ensure that the practice's patients are notified of the amendment in such manner as the Health Board or the practice sees fit, either by the Health Board or the practice.

PART 2 PROVISION OF SERVICES

Services to patients

5. Where a practice provides essential services, the Health Board shall ensure that the practice—

- (a) provides those services, and such other services that the practice statement specifies, to the practice's patients, at such times, within core hours, as are appropriate to meet the reasonable needs of those patients; and
- (b) has in place arrangements for its patients to access such services throughout the core hours in case of emergency.

Premises

6. The Health Board shall ensure that the practice premises used for the provision of primary medical services are—

- (a) suitable for the delivery of those services; and
- (b) sufficient to meet the reasonable needs of the practice's patients.

Attendance at practice premises

7.—(1) Where a practice provides essential services, the Health Board shall ensure that any patient who—

- (a) has not previously made an appointment; and
- (b) attends at the practice premises during the normal hours for essential services,

is provided with such services by an appropriate health care professional during that surgery period except in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that—

- (a) it is more appropriate for the patient to be referred elsewhere for services under the Act; or
- (b) the patient is then offered an appointment to attend again within a time which is appropriate and reasonable having regard to all the circumstances and the patient's health would not thereby be jeopardised.

(3) In the case of a patient whose medical condition is such that—

- (a) attendance of the patient is required; and
- (b) it would be inappropriate for the patient to attend at the practice premises, the Health Board shall ensure that the practice provides services to that patient at whichever, in the practice's judgement, is the most appropriate of the places set out in paragraph (4).

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

- (a) the place recorded in the patient's medical records as being the patient's last home address;
- (b) such other place as the practice has informed the patient is the place where it has agreed to visit and treat the patient; or
- (c) some other place in the practice's area.

(5) Nothing in paragraphs (3) and (4) shall prevent the practice from—

- (a) arranging for the referral of a patient without first seeing the patient, in a case where the medical condition of that patient makes that course of action appropriate; or
- (b) visiting the patient in circumstances where paragraphs (3) and (4) do not place it under an obligation to do so.

Clinical reports

8.—(1) Where a practice provides any clinical services to a patient (other than services provided under a private arrangement by persons performing services for the practice) who is not on its list of patients, the Health Board shall ensure that it prepares a clinical report relating to the consultation, and any treatment provided.

(2) The Health Board shall send any report prepared under paragraph (1)—

- (a) to the person with whom the patient is registered for the provision of essential services (or their equivalent); or
- (b) if the person referred to in sub-paragraph (a) is not known to it, to the Health Board

established under the Act in whose area the patient is resident.

Standards for out of hours services

9. Where a practice provides out of hours services, the Health Board shall ensure that in the provision of such services the practice meets the quality standards set out from time to time in guidance which has been issued to Health Boards by NHS Quality Improvement Scotland or by Healthcare Improvement Scotland.

Duty of co-operation

10.—(1) Where a practice provides essential services, but it does not provide to its registered patients or to persons whom it has accepted as temporary residents—

- (a) a particular service; or
- (b) out of hours services, either at all or in respect of some periods or some services, the Health Board shall ensure that the practice complies with the requirements specified in paragraph (2).

(2) The requirements referred to in paragraph (1) are that the practice shall—

- (a) co-operate in so far as is reasonable with any person responsible for the provision of that service or those services;
- (b) comply in core hours with any reasonable request for information from such a person relating to the provision of that service or those services; and
- (c) in the case of out of hours services, take reasonable steps to ensure that any patient who contacts the practice premises during the out of hours period is provided with information about how to obtain services during that period.

(3) Where a practice is to cease to be required to provide—

- (a) a particular service; or
- (b) out of hours services, either at all or in respect of some periods or some services,

the Health Board shall ensure that either it or the practice (as appropriate) complies with any reasonable request from a person specified in paragraph (4) for information relating to the provision of that service or those services.

(4) The persons specified for the purposes of paragraph (3) are—

- (a) any person with whom the Health Board intends to, or has entered into an agreement for Primary Medical Services made under section 17C of the Act, a general medical services contract under section 17L of the Act or other contract or arrangement for the provision of the service or services that the practice is ceasing to provide; or
- (b) any other Health Board in whose area patients that received that service or those services from that practice reside.

(5) Nothing in this direction requires a Health Board to ensure that a practice which does not provide out of hours services makes itself available during the out of hours period.

PART 3 PATIENTS

Patient lists

11. Where a practice is to provide essential services, the Health Board shall prepare and keep up-to-date a list of patients—

- (a) who have been accepted by the practice for inclusion in its list of patients in accordance with requirements that are set out in the practice statement, and who have not subsequently been removed from that list in accordance with the procedure set out in that statement; and
- (b) where applicable, who have been assigned to the practice in accordance with requirements that are specified in the practice statement and whose assignment has not been rescinded in accordance with any procedure specified in that statement.

Patient preference of practitioner

12.—(1) Where a practice provides essential services, the Health Board shall ensure that the practice—

- (a) notifies the patient (or any other person who made the application for inclusion in the practice's list of patients on the patient's behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and
- (b) records in writing any such preference expressed by or on behalf of the patient.

(2) The Health Board shall ensure that the practice endeavours to comply with any reasonable preference expressed under paragraph (1) but the practice need not do so if the preferred performer—

- (a) has reasonable grounds for refusing to provide services to the patient; or
- (b) does not routinely perform the service in question on behalf of the practice.

PART 4 PRESCRIBING AND DISPENSING

Prescribing

13.—(1) The Health Board shall ensure that a practice complies with the requirements in paragraphs 10, 11, 12, 13, 14(1), and 16 of Schedule 1 to the Section 17C Agreements Regulations but as if—

- (a) references to “provider” were to “practice”; and
- (b) references to regulation 22 in paragraph 12 were to direction 26.

(2) For the purposes of this direction, in its application to a practice whose practice statement includes the provision of contraceptive services, drugs includes contraceptive substances and appliances includes contraceptive appliances.

PART 5 PERSONS WHO PERFORM SERVICES

Qualifications of performers

14.—(1) Subject to paragraph (2), the Health Board shall ensure that no medical practitioner performs primary medical services in relation to a practice unless the medical practitioner is—

- (a) included in the primary medical services performers list for the Health Board which is under a duty to provide or secure the provision of the services to be performed;
- (b) not suspended from that list or from the Medical Register; and
- (c) not subject to interim suspension under section 41A of the Medical Act 1983 (interim orders)(a).

(2) Sub-paragraph (1) does not apply in the case of—

- (a) a person who is provisionally registered under sections 15 (provisional registration), 15A (provisional registration for EEA nationals) or 21 (provisional registration) of the Medical Act 1983(b) acting in the course of the person’s employment in a resident medical capacity in an approved medical practice; or
- (b) a GP Registrar who has applied to a Health Board to have his name included in its medical performers list until the first of the following events arises:
 - (i) the Health Board notifies him of its decision on that application; or
 - (ii) the end of a period of two months, starting with the date on which his vocational training scheme began; or
- (c) a medical practitioner who is not a GP Registrar, who is undertaking a post-registration programme and has:
 - (i) notified the Health Board that he or she will be undertaking part or all of a post-registration programme in its area at least 24 hours before commencing any part of that programme; and
 - (ii) provided with that notification evidence sufficient for the Health Board to satisfy itself that the medical practitioner is undergoing such a programme.

(a) 1983 c.54. Section 41A was inserted by S.I. 2000/1803, article 10.

(b) Section 15 was substituted by S.I. 2006/1914, Part 13, article 26; section 15A was initially inserted by regulations 2 and 3 of S.I. 2000/3041 and amended by S.I. 2007/3101 and section 21 was amended by S.I. 2006/1914 and 2007/3101.

(3) Further, such a Health Board shall ensure that—

- (a) no health care professional other than one to whom paragraph (1) applies performs clinical services in relation to the practice unless the health care professional is appropriately registered with the health care professional's relevant professional body and the health care professional's registration is not currently suspended; and
- (b) no health care professional performs any clinical services in relation to that practice unless the health care professional has such clinical experience and training as are necessary to enable the health care professional properly to perform such services.

(4) In paragraph (2)(b)(ii) “vocational training scheme” and in paragraph (2)(c) “post-registration programme” have the same meaning as under regulation 2 of the National Health Service (Primary Medical Services Performers Lists)(Scotland) Regulations 2004.^(a)

Conditions for employment and engagement

15.—(1) Before employing or engaging any person to assist in the provision of primary medical services, the Health Board shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which the person is to be employed or engaged.

(2) When considering the competence and suitability of any person for the purpose of paragraph (1), the Health Board shall have regard, in particular, to—

- (a) that person's academic and vocational qualifications;
- (b) that person's education and training; and
- (c) that person's previous employment or work experience.

Training

16. The Health Board shall ensure that for any health care professional who is—

- (a) performing clinical services in a practice; or
- (b) employed or engaged to assist in the performance of such services,

there are in place arrangements for the purpose of maintaining and updating the health care professional's skills and knowledge in relation to the services which the health care professional is performing or assisting in performing.

17. The Health Board shall ensure that it affords to each employee in the practice reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Arrangements for GP Registrars

18.—(1) The Health Board shall only employ a GP Registrar for the purpose of being trained by a GP Trainer with the agreement of the Scottish Ministers in a practice subject to the conditions in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the Health Board shall not, by reason only of having employed or engaged a GP Registrar, reduce the total number of hours for which other medical practitioners perform primary medical services in the practice or for which other staff assist them in the performance of those services.

a S.S.I. 2004/114.

(3) A Health Board which employs a GP Registrar in a practice shall take into account, and ensure the practice takes into account, any guidance issued by the Scottish Ministers in relation to the GP Registrar Scheme.

Signing of documents

19.—(1) In addition to any other requirements relating to such documents whether in these directions or otherwise, the Health Board shall ensure that the practice secures that the documents specified in paragraph (2) include—

- (a) the clinical profession of the health care professional who signed the document; and
- (b) the name of the Health Board on whose behalf it is signed.

(2) The documents referred to in paragraph (1) are—

- (a) certificates issued in accordance with direction 27, unless regulations relating to particular certificates provide otherwise;
- (b) prescription forms; and
- (c) any other clinical documents.

Terms of service for salaried general medical practitioners employed to provide services from a Practice

20.—(1) Where, on or after 29th November 2004 a Health Board offers employment to a general medical practitioner to provide primary medical services in relation to a practice, it must offer that employment on terms which are no less favourable than those contained in the “Model terms and conditions of service for a salaried general practitioner employed by a Primary Care Trust” published by the British Medical Association and the NHS Confederation as part of the supplementary documents to the new GMS contract .(a)

PART 6

RECORDS, LEAFLET, REPORTS TO A MEDICAL OFFICER AND GIFTS

Patient records

21.—(1) The Health Board shall ensure that the practice keeps adequate records of its attendance on and treatment of patients.

(2) Where the practice provides essential services, and it keeps any of the records referred to in paragraph (1) by way of computerised records, the Health Board shall ensure that—

- (a) the computer system upon which the practice proposes to keep those records has been accredited by the Scottish Ministers or another person on their behalf as suitable for that purpose
- (b) the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with sub-paragraph (a) have been enabled;
- (c) the practice does not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in sub-paragraph (b); and
- (d) the practice is aware of, and has signed an undertaking that it will have regard to any guidelines issued by the Scottish Ministers and notified to the practice by the Health Board concerning good practice in the keeping of electronic patient records.

(a) This document was published jointly by the General Practitioners Committee of the British Medical Association and the NHS Confederation. It is available on the NHS Employers website at <http://www.nhsemployers.org/PayAndContracts/GeneralMedicalServicesContract/GMSContractChanges/gmscontract200304/Pages/NewGMSContract200304.aspx>.

Confidentiality of personal data

22. The Health Board shall ensure that the practice has a person who is responsible for practices and procedures relating to the confidentiality of personal data held by the practice.

Practice leaflet

23. Where a practice provides essential services, the Health Board shall ensure that—

- (a) there is, in relation to that practice, a document (in this direction called a practice leaflet) which shall include the information specified in Schedule 1;
- (b) the practice leaflet is reviewed at least once in every period of 12 months and amended as necessary to maintain its accuracy; and
- (c) a copy of the practice leaflet is made available (including any subsequent updates), to the practice's patients and prospective patients.

Reports to a medical officer

24.—(1) The Health Board shall ensure that a practice, if the practice is satisfied that the patient consents,—

- (a) supplies in writing to a medical officer within such reasonable period as that officer, or an officer of the Department for Work and Pensions on that officer's behalf and at that officer's direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the practice has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by a medical officer, or by an officer of the Department for Work and Pensions on that officer's behalf and at that officer's direction, about a prescription form or medical certificate issued or created by the practice or about any statement which the practice has made in a report.

(2) For the purpose of satisfying itself that the patient has consented as required by paragraph (1), the practice may (unless it has reason to believe the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department for Work and Pensions, that the officer holds the patient's written consent.

Gifts

25.—(1) The Health Board shall ensure that the practice keeps a register of gifts which—

- (a) are given to any of the persons specified in paragraph (2) by or on behalf of—
 - (i) a patient,
 - (ii) a relative of a patient, or
 - (iii) any person who provides or wishes to provide services to the practice; and
- (b) have, in its reasonable opinion, an individual value of more than £100.00.

(2) The persons referred to in paragraph (1) are—

- (a) the practice;
- (b) any person employed by the Health Board for the purposes of the practice;
- (c) any general medical practitioner engaged by the Health Board for the purposes of the practice;
- (d) any spouse of a person specified in sub-paragraphs (b) or (c); or
- (e) any person (whether or not of the opposite sex) whose relationship with a person specified in sub-paragraph (b) or (c) has the characteristics of the relationship between

husband and wife.

(3) Paragraph (1) does not apply where—

- (a) there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the practice;
- (b) the practice is not aware of the gift; or
- (c) the practice is not aware that the donor wishes to provide services to the practice.

(4) The Health Board shall ensure that the practice takes reasonable steps to ensure that it is informed of gifts which fall within paragraph (1) and which are given to the persons specified in paragraph (2)(b) to (e).

(5) The register referred to in paragraph (1) shall include the following information—

- (a) the name of the donor;
- (b) in a case where the donor is a patient, the patient's National Health Service number or, if the number is not known, the patient's address;
- (c) in any other case, the address of the donor;
- (d) the nature of the gift;
- (e) the estimated value of the gift; and
- (f) the name of the person or persons who received the gift.

PART 7 FEES AND CHARGES

Fees and charges

26.—(1) The Health Board shall ensure that the practice, and any person performing primary medical services for the practice, does not, either itself or any such persons themselves, or through any other person, demand or accept a fee or other remuneration, for the practice's own or another's benefit—

- (a) from any registered patient of the practice, for—
 - (i) the provision of any treatment, whether under section 2C(1) of the Act or otherwise, or
 - (ii) any prescription for any drug, medicine or appliance,

except insofar as the Health Board is entitled to charge for any such treatment or prescription by virtue of or under any enactment, and it expressly authorises the practice to make such a charge;

- (b) from any patient of the practice other than a registered patient, for—
 - (i) the provision of any treatment under section 2C(1) of the Act, or
 - (ii) any prescription for any drug, medicine or appliance in connection with that treatment.

(2) Where a person applies to a practice for the provision of services and claims to be entitled to be treated by the practice without paying a fee or other remuneration, and the practice has reasonable doubts about that person's claim, the Health Board shall ensure that the practice gives any necessary treatment but nothing in this direction shall prevent the Health Board, insofar as it is entitled to do so by virtue of or under any enactment, from authorising the practice to demand and accept a reasonable fee for any such treatment, if it ensures that the practice gives that person a receipt.

(3) Where a person from whom a practice received a fee under paragraph (2) applies to the Health Board for a refund within 14 days of payment of the fee (or such longer period not exceeding a month as it may

allow if it is satisfied that the failure to apply within 14 days was reasonable) and the Health Board is satisfied that the person was entitled to be treated by it without paying a fee or other remuneration when the treatment was given, the Health Board shall pay that amount to the person who paid the fee.

PART 8 CERTIFICATES

Certificates

27.—(1) The Health Board shall ensure that, in the course of providing primary medical services, the practice issues free of charge to a patient or a patient's personal representatives any medical certificate of a description prescribed in column 1 of Schedule 2 which is relevant to any service that the practice provides pursuant to the practice statement, which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of that Schedule, except where, for the condition to which the certificate relates, the patient—

- (a) is being attended by a medical practitioner who is not employed or engaged by the Health Board in relation to the practice; or
- (b) is not being treated by or under the supervision of a health care professional.

(2) The exception in paragraph (1)(a) shall not apply where the certificate is a doctor's statement issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976(a) (evidence of incapacity for work, limited capability for work and confinement) or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985(b) (medical information).

PART 9 REVOCATION

Revocation

28. The Health Board Direct Provision of Primary Medical Services (Scotland) Directions 2011 dated 26 January 2011 are revoked.



Frank Strang
A Member of the Staff of the Scottish Ministers

Directorate for Health and Social Care Integration
Edinburgh
1 November 2011

(a) S.I. 1976/615 which was relevantly amended by S.I. 2010/137.
(b) S.I. 1985/1604 which was relevantly amended by S.I. 2010/137.

INFORMATION TO BE INCLUDED IN A PRACTICE LEAFLET

A practice leaflet shall include—

- 1.** The name of the Health Board.
- 2.** The full name of each person performing services in relation to the practice.
- 3.** In the case of each health care professional performing services in relation to the practice, the health care professional's professional qualifications.
- 4.** Whether the practice undertakes the teaching or training of health care professionals or persons intending to become health care professionals.
- 5.** Where services are, pursuant to the practice statement, only to be provided to persons resident in a particular area, the area (by reference to a sketch diagram, plan or postcode) within which a person resident would be entitled to receive services from the practice.
- 6.** The address of each of the practice's premises.
- 7.** The practice's telephone and fax number and the address of its website (if any).
- 8.** Whether the practice's premises have suitable access for all disabled patients and, if not, the alternative arrangements for providing services to such patients.
- 9.** How to register as a patient or, where appropriate, otherwise receive services as a patient from the practice.
- 10.** The right of patients to express a preference of practitioner in accordance with direction 12 and the means of expressing such a preference.
- 11.** The services available to registered patients.
- 12.** The opening hours of the practice's premises and the method of obtaining access to services throughout the core hours.
- 13.** The criteria for home visits and the method of obtaining such a visit.
- 14.** The arrangements for services in the out of hours period (whether or not provided by the practice) and how the patient may access such services.
- 15.** The telephone number of NHS 24 and details of the NHS 24 website.
- 16.** How patients may make a complaint or comment on the provision of service.
- 17.** The method by which patients are to obtain repeat prescriptions.
- 18.** The rights and responsibilities of the patient, including keeping appointments.
- 19.** The action that may be taken where a patient is violent or abusive to any member of staff of the Health Board or other persons present on the practice's premises or in the place where treatment is provided by the practice.

20. Details of who has access to patient information (including information from which the identity of the individual can be ascertained) and the patient's rights in relation to disclosure of such information.

21. The name, address and telephone number of the Health Board and contact name from whom details of primary medical services provision in the area may be obtained.

SCHEDULE 2

Direction 27

LIST OF PRESCRIBED MEDICAL CERTIFICATES

<i>Description of medical certificate</i>	<i>Enactment under or for the purpose of which certificate required</i>
1. To support a claim or to obtain payment either personally or by proxy; to prove incapacity to work or for self-support for the purposes of an award by the Secretary of State; or to enable proxy to draw pensions etc.	Naval and Marine Pay and Pensions Act 1865(a) Air Force (Constitution) Act 1917(b) Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(c) Personal Injuries (Emergency Provisions) Act 1939(d) Pensions (Mercantile Marine) Act 1942(e) Polish Resettlement Act 1947(f) Social Security Administration Act 1992(g) Social Security Contributions and Benefits Act 1992(h) Social Security Act 1998(i)
2. To establish pregnancy for the purpose of obtaining welfare foods.	Section 13 of the Social Security Act 1988 (schemes for distribution etc. of welfare foods)(j)
3. To secure registration of still-birth.	Section 21 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (special provision as to registration of still-birth)(k)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc. of mentally disordered persons)(l)
5. To establish unfitness for jury service.	Criminal Procedure (Scotland) Act 1995(m) Court of Session Act 1988(n)

(a) 1865 c.73

(b) 1917 c.51.

(c) 1939 c.83.

(d) 1939 c.82.

(e) 1942 c.26.

(f) 1947 c.19.

(g) 1992 c.5.

(h) 1992 c.4.

(i) 1998 c.14.

(j) 1988 c.7. Section 13 was amended by the Social Security Act 1990 (c.27), Schedule 5, paragraph 8(11)(a) and Schedule 7, and the Social Security (Consequential Provisions) Act 1992 (c.6), Schedule 2, paragraph 94.

(k) 1965 c.49. Section 21 was amended by the Nurses, Midwives and Health Visitors Act 1979 (c.36), Schedule 6, paragraphs 12 and 13; Local Electoral Administration and Registration Services (Scotland) Act 2006, sections 40 and 44 and Certification of Death (Scotland) Act 2011, sections 26, 27 and Schedule 2.

(l) 1983 c.20. Section 142 was amended by S.I. 1999/1820.

(m) 1995 c.46.

(n) 1988 c.36.

<i>Description of medical certificate</i>	<i>Enactment under or for the purpose of which certificate required</i>
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	Reserve Forces (Safeguarding of Employment) Act 1985 (a)
7. To enable a person to be registered as an absent voter on grounds of physical incapacity.	Representation of the People Act 1983 (b)
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances.	National Health Service (Scotland) Act 1978 (c)
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable.	Local Government Finance Act 1992 (d) , Schedule 1, paragraph 2(1)(b)

(a) 1985 c.17.

(b) 1983 c.2.

(c) 1978 c.29.

(d) 1992 c.14.