

REGULATORY APPRAISAL

NATIONAL HEALTH SERVICE, WALES

THE NATIONAL HEALTH SERVICE (PERFORMERS LISTS) (WALES) (AMENDMENT) REGULATIONS 2005

Purpose and Intended Effect

Pre 1st April 2004

1. The National Health Service (General Medical Services) (Amendment) (No 2) (Wales) 2002 and the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 introduced the first wave of “post Shipman” reforms to general practitioner listing in August 2002. The Regulations tightened control over primary care general practitioner listing by giving Local Health Boards (LHBs) powers to:-
 - refuse admission to a GP, or place conditions on their admission, on grounds of fraud, inefficiency and/or unsuitability;
 - to remove a GP from, or place conditions on their remaining on the performers list, on grounds of fraud, efficiency and unsuitability;
 - to suspend (with pay) a GP from the medical list where it is believed that he or she pose a risk to members of the public or it is in the public interest to do so.
2. Practitioners were required to declare criminal convictions and other investigations into their professional behaviour and provide references. The regulations enabled LHBs to ask practitioners applying for listing to provide a Criminal Records Bureau (CRB) enhanced disclosure. As a matter of policy all practitioners applying for listing in Wales since 26 August 2002 have been asked to consent to a CRB check.
3. The introduction of the General Medical Services Supplementary List Regulations required listing of locum GPs for the first time. The opportunity was taken in Wales to administer the listing on an all Wales basis using a dedicated team in Gwent Health Authority Contractor Services (now Business Service Centre (BSC) Pontypool).

Post 1st April 2004

4. The NHS (Performers Lists) (Wales) Regulations 2004 came into force on the 1 April 2004. The regulations consolidated the previous General Medical Services Medical List and Supplementary Medical List into a single Performers List for all Welsh GPs, Locums and Registrars. The regulations included:-
 - a requirement on GPs to undertake an enhanced Criminal Record Check; and
 - a requirement on GPs to declare any gifts over the value of £100 on a gift register.

5. The opportunity was taken to consolidate the existing medical lists with the supplementary list database and administer this using the dedicated team in BSC Pontypool on behalf of LHBs. Performers are required to be on the medical performers list of an LHB in whose area they practice. Currently GPs listed in England are required to apply to join a Welsh list to work in Wales (and vice versa). This has raised the issue of availability of locums in border areas of Wales, given GP practices currently can experience difficulty in arranging locum cover.
6. Until now it has not been possible to simplify arrangements for GPs, listed with another UK primary care organisation, to join a Welsh list due to the primary care organisations not requiring a CRB check during their application process. With the introduction of the new GMS contract and Performer List Regulations in Wales and England, Primary Care Trusts (PCTs) are now legally required to request a CRB check for members of their medical performers list. This means that English PCTs will now have the same level of checks as Welsh LHBs. The same requirements apply in relation to Scotland and Northern Ireland and therefore it is considered appropriate to extend the provisions of these Regulations to performers listed in those countries who may wish to apply to work in Wales.
7. The amendment to the Principal Regulations will make it quicker and simpler for GPs already listed with primary care organisations to join the Welsh Performers List. It is anticipated that this will help alleviate the difficulties currently experienced by GP practices in Wales who need to obtain locum cover. However, I also considered it desirable to extend the provisions of the Regulations to performers already listed with primary care organisations throughout the United Kingdom on the basis that this would make the movement of performers both to and within Wales simpler.

Minor Changes

8. Included within the changes are several small changes, these include: amendment to definitions of “Armed Forces GPs”, “Scheme” and “GP Registrar”

Risk Assessment

9. Failure to make these amendments would have a serious effect for GP practices, and their patients, across Wales. The current system is lengthy and onerous and this is deterring GPs already listed with PCOs from applying to join a Welsh list. This has already meant that GP practices, especially on the Wales/England borders, are having problems trying to get locum cover in the event of an absent GP, putting more pressure on the available GPs.

Options

Option 1

10. Allow GPs currently listed on a PCO performers list in England, Scotland, or NI the automatic right to work in Wales.

Option 2

11. Streamlines the application form to allow GPs already listed to work once the necessary checks are completed. LHBs would be required to request a CRB check or evidence of one undertaken in previous 6 months.

Option 3

12. Streamline the application form. Amend regulations to allow a GP listed in England Scotland, Northern Ireland or elsewhere in Wales, who has applied to join a Welsh performers list, to work for a maximum of 2 months whilst the checks are being completed. Amend regulations to allow a check to be undertaken with PCO instead of taking up references from past employing practices. LHBs would be required to request a CRB check or evidence of one undertaken in previous 6 months.

Benefits

Option 1

13. No Application period - A GP would be able to work in Wales without being delayed by completing forms they have previously completed for a PCO.

Option 2

14. The application form wouldn't be as long and onerous and therefore wouldn't take as long to complete.

15. The LHB will still have control over the list.

Option 3

16. The application form could be shortened to a maximum of six pages and would not be as onerous to complete as an application form required for initial listing.

17. Allows a GP to work as soon as an application is submitted.

18. The LHB check with the PCO could be done the same day as the application is received. The LHB will still have control over the list.

Conclusion

19. In deciding the best course of action we had to balance making it easier for GPs to work across national borders whilst ensuring the post Shipman processes put in place to safeguard patient safety were not lost. The regulations and systems put in place to administer contractor listing in Wales have given us a single administration unit and single all Wales database of listed primary care contractors. The benefits of this must not be lost.

20. **Option 1** would allow total freedom for GPs listed in other home countries to work in Wales without even having to notify the LHB in whose area they were working. This option raises concerns around control of contractors and professional performance. This option would render the all Wales database of listed contractors worthless.

21. **Option 2** is little different from the situation as things stand other than to try and shorten the application form, this would be difficult without making amendment to the current regulations. This option would have little impact and would not solve the problems experienced by LHBs in border areas who often need to find locum cover with just a couple of days' notice.
22. **Option 3** provides the LHB with the control needed to safeguard patients but also allows the GP to work whilst the minimum appropriate level of paperwork and checks are being completed. Since the introduction in Wales of the consensual CRB checks in August 2002 it would be inappropriate to lower requirements too much as this would undermine what has been achieved. We favour this option.
23. The favoured amendment is designed to encourage more PCO listed GPs to apply and work in Wales. The arrangements would only cover GPs who are unconditionally listed with a PCO in England, Scotland, Northern Ireland or elsewhere in Wales.

Costs

24. The purpose of these regulations is to make the application process easier for GPs listed with a UK primary care organisation (PCO). This is to encourage GPs to provide locum cover in specific border areas, Flintshire, Wrexham, Powys and Monmouthshire LHBs. At present we have 318 GPs listed amongst these LHBs including principal GPs. We do not anticipate an increase of more than 20% which equates to 64 GPs. At present there are only 88 GPs listed with LHBs who reside in England. The cost of an enhanced CRB disclosure is £33, for 64 GPs this would amount to £2,112 and for 88 GPs (if we doubled the number of existing English listed GPs) the cost would be £2,904.

Impact on Small Businesses

25. There will be no impact on small businesses resulting from the amendments.

Consultation (Principle of Policy)

26. A consultation document was sent out to stakeholders on 13 July 2004. The consultation ended on 8 October 2004. The stakeholders included Local Health Boards, GPs within Wales, General Practitioners Committee (Wales), Business Service Centre, Community Health Councils, Primary Care Organisations within the United Kingdom and their Primary Care Teams. The document was also available on the Assembly Internet site. A list of consultees is attached at Annex 1.
27. The consultation considered what is currently in place and why it was preventing GPs already listed with PCOs from applying to join a Welsh list. It included 3 options to improve the regulations and attract more locums to the Welsh list. We had eleven overall responses to the consultation, eight in favour with option 3 and three in favour of options 1 or 2.

28. Following the replies we had we have decided to proceed with option 3 which involves streamlining the application form and allowing a 2 month working period whilst the checks are being completed.

Monitoring and Review

29. Listing arrangements and collating CRB checks are administered by the Business Service Centre Pontypool (BSC). The Assembly holds regular meetings with the BSC to monitor their progress.

30. The Shipman Inquiry is due to release a report involving performer listing in 2005. They could make recommendations on the listing process and CRB checks. Any recommendations will be assessed at the time.

Summary

31. The amendments will make it simpler and quicker for a PCO listed GP to join the Welsh Performers List as a locum, enabling them to cover work in Wales.

List of Consultees

- Business Services Centre
- General Medical Council (Wales)
- Anglesey Local Health Board
- Blaenau Gwent Local Health Board
- Bridgend Local Health Board
- Caerphilly Local Health Board
- Cardiff Local Health Board
- Carmarthen Local Health Board
- Ceredigion Local Health Board
- Conwy Local Health Board
- Denbighshire Local Health Board
- Flintshire Local Health Board
- Gwynedd Local Health Board
- Merthyr Tydfil Local Health Board
- Monmouthshire Local Health Board
- Neath Port Talbot Local Health Board
- Newport Local Health Board
- Pembrokeshire Local Health Board
- Powys Local Health Board
- Rhondda Cynon Taf Local Health Board
- Swansea Local Health Board
- Torfaen Local Health Board
- Vale of Glamorgan Local Health Board
- Wrexham Local Health Board
- Board of Community Health Councils in Wales
- Brecknock and Radnor CHC
- Bridgend CHC
- Cardiff CHC
- Carmarthen CHC
- Ceredigion CHC
- Clwyd CHC
- Conwy East CHC
- Conwy West CHC
- Gogledd Gwynedd CHC
- Gwent CHC
- Llanelli/Dinefwr CHC
- Meirionnydd CHC
- Merthyr and Cynon Valley CHC
- Montgomery CHC
- Neath / Port Talbot CHC
- Pembrokeshire CHC
- Pontypridd & Rhondda CHC
- Swansea CHC
- Vale of Glamorgan CHC

- Ynys Mon - Isle of Anglesey CHC
- Department of Health
- Scottish Executive Health Department
- Department of Health, Social Services and Public Safety Northern Ireland
- The Consultation was also available on the Welsh Assembly Internet Site

NB.

- ◆ Local Health Boards were asked to disseminate consultation to GPs in Wales
- ◆ Department of Health, Scottish Executive and Department of Health Northern Ireland were asked to disseminate consultation to their Primary Care Teams (Local Health Board Equivalent) and GPs