STATUTORY RULES OF NORTHERN IRELAND

2011 No. 17

HEALTH AND PERSONAL SOCIAL SERVICES

The Regulation and Improvement Authority (Independent Health Care) (Fees and Frequency of Inspections) (Amendment) Regulations (Northern Ireland) 2011

Made - - - - 25th January 2011

Coming into operation 1st April 2011

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred on it by Articles 2 (2), (7) to (9), 6 (1)(e), 13(2), 16(3) and (5), 17 (3), 23 (1), (2)(a) to (d) and (f) to (j), (3), (5), (7)(a) to (h), (j) and (k), 25(1), 30, 31(1), 32, 40(7) and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.(**1**)

In accordance with Article 23 (8) of that Order, the Department has consulted such persons as it considers appropriate.

Citation and commencement

1. These Regulations may be cited as the Regulation and Improvement Authority (Independent Health Care) (Fees and Frequency of Inspections) (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 1st April 2011.

Amendment of the Independent Health Care Regulations (Northern Ireland) 2005

2.—(1) The Independent Health Care Regulations (Northern Ireland) 2005(**2**) shall be amended in accordance with paragraphs (2) to (13).

Amendment of regulation 2

(2) In regulation 2 (Interpretation), in paragraph (1)—

(a) after the definition of "health care professional" insert—

""insurance provider" means—

(**1**) S.I. 2003/431 (N.I.9)
(**2**) S.R 2005 No. 174

(a) a person regulated by the Financial Services Authority who sells insurance, or underwrites the risk of such an insurance, or

(b) the agent of such a person;"

(b) after the definition of "patient's guide" insert—

""personal dental services" has the same meaning as in Article 3(7) of the Health Services (Primary Care) (Northern Ireland) Order 1997 (**3**); " and

(c) after the definition of a "registered provider" insert—

""RQIA" means the Health and Social Care Regulation and Quality Improvement Authority;".

Amendment of regulation 3

(3) In regulation 3 (Exceptions to the definition of independent hospital)-

(a) at the end of paragraph (g), omit "and", and

(b) for paragraph (h) substitute the following paragraphs—

"(h) a surgery or consulting room (which is not part of a hospital) in which a medical practitioner provides medical services only under arrangements made on behalf of the patients by —

(i) their employer;

(ii) a Northern Ireland department;

(iii) a prison or other establishment in which the patients are held in custody, other than pursuant to any provision of the Mental Health Order (Northern Ireland) 1986(**4**); or

(iv) an insurance provider with whom the patients hold an insurance policy, other than a insurance policy which is solely or primarily intended to provide benefits in connection with the diagnosis or treatment of physical or mental illness, disability or infirmity; and

(i) an establishment which has as its sole purpose the provision by a dental practitioner of general dental services (**5**), or personal dental services (**6**) and such an establishment shall not become an independent hospital as a result of the provision of listed services to a patient by such a dental practitioner"

Amendment of regulation 4

(4) In regulation 4 (1) (Prescribed techniques or technology)—

(a) at the end of sub-paragraph (c) delete "and", and

(b) after sub-paragraph (d), there shall be added the following sub-paragraphs—

"(e) haemodialysis or peritoneal dialysis; and

(f) hyperbaric therapy, being the administration of oxygen (whether or not combined with one or more other gases) through a mask to a patient who is in a sealed chamber which is gradually pressurised with compressed air, where such therapy is carried out by or under the supervision or direction of a medical practitioner, except where the primary use of that chamber is—

(**3**) S.I. 1997/1177 (N.I.7)
(**4**) S.I 1986/595 (N.I.4)
(**5**) See Article 2 of the Health and Personal Social Services (Northern Ireland) Order 1972
(**6**) See Article 3 (7) of the Health Services (Primary Care) (N.I.) Order 1997

(i) pursuant to regulation 6(3)(b) of the Diving at Work Regulations (Northern Ireland) 2005(**7**) or regulation 8 or 12 of the Work in Compressed Air Regulations (Northern Ireland) 2004(**8**); or

(ii) otherwise for the treatment of workers in connection with the work which they perform."

Insertion of regulation 4A

(5) After regulation 4 there shall be inserted the following regulation—

"**Modification of Article 2(7) of the Order**

4A. Paragraph (7) of Article 2 of the Order shall be modified by substituting for sub-paragraph (b), the following sub-paragraph—

"(b) dental treatment;".".

Amendment of regulation 5

(6) In regulation 5 (Meaning of independent clinic)—

(a) In paragraph (1), for sub-paragraph (b) substitute —

"(b) unless paragraph (1A) applies, a surgery or consulting room in which a medical practitioner who provides no services in pursuance of the 1972 Order provides medical services of any kind (including psychiatric treatment)." and

(b) after paragraph (1), insert—

"(1A) Paragraph (1)(b) does not apply to an establishment where medical services are provided only under arrangements made on behalf of the patients by—

(a) their employer;

(b) a Northern Ireland department;

(c) a prison or other establishment in which the patients are held in custody, other than pursuant to any provision of the Mental Health Order (Northern Ireland) 1986(**9**); or

(d) an insurance provider with whom the patients hold an insurance policy, other than an insurance policy which is solely or primarily intended to provide benefits in connection with the diagnosis or treatment of physical or mental illness, disability or infirmity".

Amendment of regulation 6

(7) For regulation 6 (Exception of undertaking from the definition of independent medical agency, substitute—

"**6.** For the purposes of the Order, any undertaking which consists of the provision of medical services by a medical practitioner only under arrangements made on behalf of the patients by—

(a) their employer;

(b) a Northern Ireland department;

(**7**) S.R. 2005 No.45
(**8**) S.R. 2004 No.241
(**9**) S.I. 1986/595 (N.I.4) as amended by S.I. 1994 No.429 (N.I.2) & S.I. 2004 No. 1272 (N.I.8)

(c) a prison or other establishment in which the patients are held in custody, other than pursuant to any provision of the Mental Health Order (Northern Ireland) 1986; or

(d) an insurance company with whom the patients hold an insurance policy, other than an insurance policy which is solely or primarily intended to provide benefits in connection with the diagnosis or treatment of physical or mental illness, disability or infirmity,

shall be excepted from being an independent medical agency."

Insertion of regulation 9A (Requirements for statement of policies and procedures)

(8) There shall be inserted after Regulation 9 (Review of statement of purpose and patient's guide) the following regulation—

"**Requirements for statements of policies & procedures**

9A.—(1) The registered person shall implement written statements of the policies to be applied and the procedures to be followed in or for the purposes of an establishment in relation to—

(a) the arrangements for admission or acceptance of patients, their transfer to a hospital where required and, in the case of an establishment which admits in-patients, their discharge;

(b) the arrangements for assessment, diagnosis and treatment of patients;

(c) ensuring that the premises used by or for the purpose of an establishment are at all times fit for the purpose for which they are used;

(d) monitoring the quality and suitability of facilities and equipment;

(e) identifying, assessing and managing risks to employees, patients and visitors associated with the operation of the establishment;

(f) the creation, management, handling and storage of records and other information;

(g) the provision of information to patients and others;

(h) the recruitment, induction and retention of employees and their employment conditions;

(i) the grant and withdrawal of practising privileges to medical practitioners in establishments where such privileges are granted; and

(j) ensuring that, where research is carried out in an establishment, it is carried out with the consent of any patient or patients involved, is appropriate for the establishment concerned and is conducted in accordance with up-to-date and authoritative published guidance on the conduct of research projects.

(2) The registered person shall prepare and implement a written statement of the policies to be applied and the procedures to be followed for the purposes of an agency in relation to—

(a) the arrangements for transfer to a hospital, where required; and

(b) each of the matters specified in sub-paragraphs (b), (f), (g) and (h) of paragraph (1)

(3) The registered person shall prepare and implement written statements of policies to be applied and procedures to be followed in or for the purposes of an establishment, or for the purpose of an agency, which ensure that—

(a) the competence of each patient to consent to treatment is assessed;

(b) in the case of a competent patient, properly informed consent to treatment is obtained;

(c) in the case of a patient who is not competent, he is, so far as practicable, consulted before any treatment proposed for him is administered; and

(d) information about a patient's health and treatment is disclosed only to those persons who need to be aware of that information in order to treat the patient effectively or minimise any risk of the patient harming himself or another person, or for the purpose of the proper administration of the establishment or agency.

(4) The registered person shall review the operation of each policy and procedure implemented under—

(a) this regulation

(b) regulation 23; and

(c) in so far as they apply to him, regulations 35, 39C and 39D

at intervals of not more than three years and shall, where appropriate, prepare and implement revised policies and procedures.

(5) The registered person shall make a copy of all written statements prepared in accordance with this regulation available for inspection by the RQIA."

Insertion of regulations 39A to 39E

(9) There shall be inserted after Regulation 39 (Use of certain techniques or technology) the following regulations —

""INDEPENDENT HOSPITALS THE MAIN PURPOSE OF WHICH IS TO PROVIDE MEDICAL OR PSYCHIATRIC TREATMENT FOR MENTAL DISORDER

39A. Regulations 39B to 39E apply to independent hospitals the main purpose of which, is to provide medical or psychiatric treatment for mental disorder.

Safety of patients and others

39B.—(1) In addition to the statement of policies and procedures to be prepared in accordance with regulation 9A, the registered person shall prepare and implement written statements addressing policies and procedures in relation to—

(a) assessment of a patient's propensity to violence and self harm;

(b) the provision of information to employees as to the outcome of such an assessment;

(c) assessment of the effect of the layout of the hospital premises, and its policies and procedures, on the risk of a patient harming himself or another person; and

(d) the provision of training to enable employees to minimise risk of a patient harming himself or another person.

(2) The registered person shall in particular prepare and implement a suicide protocol, which requires—

(a) a comprehensive examination of the mental condition of each patient;

(b) an evaluation of the patient's history of mental disorder, including identification of suicidal tendencies;

(c) an assessment of the patient's propensity to suicide;

(d) if necessary, appropriate action to reduce the risk of the patient committing suicide.