STATUTORY RULES OF NORTHERN IRELAND

2010 No. 222

HEALTH AND PERSONAL SOCIAL SERVICES

The Medical Profession (Responsible Officers) Regulations (Northern Ireland) 2010

Laid before the Assembly in draft

Made - - - - 23rd June 2010

Coming into operation 1st October 2010

The Department of Health, Social Services and Public Safety makes the following Regulations in exercise of the powers conferred by section 45A of the Medical Act 1983(**1**) and section 120 of the Health and Social Care Act 2008(**2**).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Medical Profession (Responsible Officers) Regulations (Northern Ireland) 2010 and shall come into operation on 1st October 2010.

(2) In these Regulations—

"the 2008 Act" means the Health and Social Care Act 2008;

"the Act" means the Medical Act 1983;

"clinical practice" includes medical practice or professional practice;

"the Department" means the Department of Health, Social Services and Public Safety;

"Health and Social Care Regulation and Quality Improvement Authority" means the body established under the Health and Personal Social Services (Quality, Improvement and Regulation)(Northern Ireland) Order 2003(**3**);

"a Health and Social Care Trust" means a body established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991(**4**);

(**1**) 1983 c.54; sections 45A to 45F were inserted by section 119 of the Health and Social Care Act 2008 (c. 14).
(**2**) 2008 c.14.
(**3**) S.I.2003/431 (N.I.9) renamed by section 1(2)(a) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 c.1 (N.I.)
(**4**) S.I.1991/194 (N.I.1)

"hospital" has the same meaning as in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(**5**);

"HSC body" means any of the bodies listed in section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009(**6**);

"medical practitioner" except in regulation 5(1)(b) means a fully registered person within the meaning of the Act who holds a licence to practise under the Act;

"medical services" means services provided by a medical practitioner;

"non-departmental public body" means a body, other than a Northern Ireland department, established by a statutory provision to perform functions conferred on it under that statutory provision or any other statutory provision;

"Northern Ireland Blood Transfusion Service" means the special agency established by Order(**7**) under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland)Order 1990(**8**);

"Northern Ireland Medical and Dental Training Agency" means the special agency established by Order(**9**) under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland)Order 1990;

"nursing home" and "residential care home" have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation)(Northern Ireland) Order 2003;

"practising privileges" means the grant, by a person managing a hospital, to a medical practitioner of permission to practise as a medical practitioner in that hospital;

"Primary medical services performers list" means the list prepared in accordance with regulation 4 of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(**10**);

"the Regional Agency for Public Health and Social Well-Being" means the body established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"the Regional Business Services Organisation" means the body established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"the Regional Health and Social Care Board" means the body established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

"a special health and social care agency" means a special agency established under Article 3 of the Health and Social Services (Special Agencies) (Northern Ireland) Order 1990.

(3) The Interpretation Act (Northern Ireland)1954 shall apply to these Regulations as it applies to an Act of the Assembly(**11**).

(**5**) S.I.1972/1265 (N.I.14)
(**6**) 2009 c.1(N.I.)
(**7**) S.R. 1994 No.175
(**8**) S.I. 1990/247 (N.I.3)
(**9**) S.R. 2004 No.62
(**10**) S.R.2004 No.149 as amended by S.R.2008 No.434
(**11**) 1954 c.33(N.I.)

PART 2

Responsible Officers

Designated bodies

2.—(1) The designation of bodies for the purposes of section 45A of the Act is prescribed as follows.

(2) The bodies listed in Part 1 of the Schedule are designated bodies.

(3) The bodies listed in Part 2 of the Schedule, to the extent that they do not fall within Part 1 of the Schedule, are designated bodies only if and for so long as they employ or contract with one or more medical practitioners.

Duty to nominate or appoint responsible officers

3.—(1) Subject to the following provisions of this regulation, every designated body must nominate or appoint a responsible officer.

(2) When a responsible officer nominated or appointed in accordance with paragraph (1) ceases to hold that position, the designated body must nominate or appoint a replacement as soon as reasonably practicable.

(3) A body listed in Part 2 of the Schedule which is a designated body by virtue of regulation 2(3) is not required to nominate or appoint a responsible officer if, and for so long as, there is no prescribed connection under regulation 8 between that body and any medical practitioner.

Duty to nominate or appoint additional responsible officers in cases of conflict of interest or appearance of bias

4.—(1) A designated body must nominate or appoint a second responsible officer where—

(a) the designated body has nominated or appointed a responsible officer in accordance with regulation 3; and

(b) there is a conflict of interest or an appearance of bias between that responsible officer and a medical practitioner in respect of whom that officer has responsibilities under regulation 9 or 11 ("the relevant practitioner").

(2) In considering whom to nominate or appoint as a second responsible officer in accordance with paragraph (1), the designated body must ensure that there is no conflict of interest or appearance of bias between the person to be nominated or appointed and the relevant practitioner.

(3) Where a second responsible officer has been nominated or appointed in accordance with paragraph (1), that responsible officer, and not the first responsible officer, has the responsibilities specified in regulation 9 or 11 in relation to the relevant practitioner.

Conditions for nomination or appointment of responsible officers and for remaining as responsible officers

5.—(1) The following conditions must be satisfied in order for a person to be nominated or appointed as a responsible officer of a designated body under regulation 3 or 4—

(a) the person must be a medical practitioner; and

(b) the person must, at the time of appointment, have been a medical practitioner throughout the previous 5 years, and for this purpose "medical practitioner" means a person who was fully registered under the Act at the relevant time.

(2) A responsible officer must continue to be a medical practitioner in order to remain as a responsible officer.

Nomination or appointment of one person as responsible officer for two or more designated bodies

6. The same person may be nominated or appointed as the responsible officer for two or more designated bodies where each designated body concerned is satisfied that—

(a) the person satisfies the conditions in regulation 5;

(b) the person has the capacity to carry out their responsibilities under regulation 9 or 11 for each body; and

(c) no conflict of interest is likely to arise.

Nomination of responsible officer by the Department

7. The Department may nominate a responsible officer for a designated body where—

(a) the designated body has failed to nominate or appoint a responsible officer in accordance with regulation 3 or 4; or

(b) the designated body has nominated or appointed as a responsible officer a person who does not meet the conditions in regulation 5.

Connection between designated bodies and medical practitioners

8.—(1) For the purposes of section 45B of the Act, and subject to the following provisions of this regulation and to regulation 10, a designated body has a prescribed connection with a medical practitioner in the following circumstances—

(a) the designated body is the Northern Ireland Medical and Dental Training Agency and the medical practitioner is a doctor in training managed by the Agency;

(b) where sub-paragraph (a) is not applicable, the medical practitioner is on the designated body's primary medical services performers' list;

(c) where neither sub-paragraph (a) nor (b) applies, the medical practitioner is employed by the designated body;

(d) the designated body owns or manages a hospital and the medical practitioner has practising privileges in respect of that hospital;

(e) where none of the preceding sub-paragraphs applies, the designated body is a body referred to in paragraphs 15 to 17 of the Schedule and the medical practitioner is a member of that body;

(f) where none of the preceding sub-paragraphs applies, the designated body is the Independent Doctors' Federation and the medical practitioner is a member of that body.

(2) Where a medical practitioner would otherwise have a prescribed connection with more than one designated body under paragraph (1), the prescribed connection is as follows—

(a) in any case where paragraph (1)(a) (doctor in training) applies, the prescribed connection is in accordance with that paragraph;

(b) in any case where paragraph (1)(b)(medical practitioner on the primary medical services performers list) applies, the prescribed connection is in accordance with that paragraph;

(c) subject to sub-paragraph (d), in any case where paragraph (1)(c) (medical practitioner employed by a designated body) applies, the prescribed connection is in accordance with that paragraph;

(d) where a prescribed connection with more than one designated body arises under paragraph (1)(c) —

(i) the medical practitioner has a prescribed connection with the designated body for whom the medical practitioner carries out most of their clinical practice, and

(ii) if there is no significant difference in the amount of clinical practice which the medical practitioner carries out for each designated body—

(aa) if one and only one of the designated bodies concerned is an HSC body, the medical practitioner has a prescribed connection with that body, and

(bb) in any other case, the medical practitioner has a prescribed connection with the designated body which is located the shortest distance from the medical practitioner's address as registered with the General Council;

(e) in any other case—

(i) the medical practitioner has a prescribed connection with the designated body for whom the medical practitioner carries out most of their clinical practice, and

(ii) if there is no significant difference in the amount of clinical practice which the medical practitioner carries out for each designated body—

(aa) if one and only one of the designated bodies concerned is an HSC body, the medical practitioner has a prescribed connection with that body, and

(bb) in any other case, the medical practitioner has a prescribed connection with the designated body which is located the shortest distance from the medical practitioner's address as registered with the General Council.

(3) Where—

(a) a medical practitioner ("M") would otherwise have a prescribed connection with a designated body;

(b) M has a prescribed connection with a designated body under Regulations made under section 45A of the Act in relation to England, Wales or Scotland ; and

(c) M carries out most of M's clinical practice in England, Wales or Scotland,

M does not have a prescribed connection with a designated body under this regulation.

(4) For the purposes of paragraph (2)(d)(ii)(bb) and (2)(e)(ii)(bb) the location of a designated body is the address of its principal office.

Responsibilities of responsible officers: prescribed connection under regulation 8

9.—(1) The responsible officer for a designated body has the following responsibilities relating to the evaluation of the fitness to practise of every medical practitioner who has a prescribed connection with that body by virtue of regulation 8.

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

(a) to ensure that the designated body carries out regular appraisals on medical practitioners in accordance with paragraph (3);

(b) to establish and implement procedures to investigate concerns about a medical practitioner's fitness to practise raised by patients or staff of the designated body or arising from any other source;

(c) where appropriate, to refer concerns about the medical practitioner to the General Council;

(d) where a medical practitioner is subject to conditions imposed by, or undertakings agreed with, the General Council, to monitor compliance with those conditions or undertakings;