STATUTORY RULES OF NORTHERN IRELAND

2005 No. 175

HEALTH AND PERSONAL SOCIAL SERVICES

The Nursing Agencies Regulations (Northern Ireland) 2005

Made - - - -	*25th March 2005*
Coming into operation	*1st April 2005*

The Department of Health, Social Services and Public Safety for Northern Ireland, in exercise of powers conferred on it by Articles 2(8)(h), 23(1), (2)(a) to (c), (f) to (j), (3), (4) and (7)(a) to (h) and (j), 25, 31(1), 32 and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**1**) and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Nursing Agencies Regulations (Northern Ireland) 2005 and shall come into operation on 1st April 2005.

Interpretation

2.—(1) In these Regulations –

"the Order" means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"agency" means a nursing agency;

"general practitioner" means a medical practitioner who provides primary services;

"health care professional" means a member of a profession which is regulated by a body mentioned (at the time the agreement is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**2**);

"holistic care" means the care provided by a multi-professional team working together to meet physical, psychological, social, religious and cultural needs of patients;

(**1**) S.I. 2003/431 (N.I. 9)
(**2**) S.I. 2002 (c. 17)

"inspector" means a person authorised by the Regulation and Improvement Authority to enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency;

"local supervising authority" means a HSS Board in relation to which area the nursing agency operates;

"nurse" means a person registered in the register maintained under Article 5 of the Nursing and Midwifery Order 2001(**3**) by virtue of qualifications in nursing or midwifery, as the case may be;

"organisation" means a body corporate or any unincorporated association other than a partnership;

"patient" means a person to whom nursing is provided by a nurse supplied by an agency;

"registered manager", in relation to an agency, means a person who is registered under Part III of the Order as the manager of that agency;

"registered person", in relation to an agency, means any person who is the registered provider or the registered manager of that agency;

"registered provider", in relation to an agency, means a person who is registered under Part III of the Order as the person carrying on that agency;

"responsible individual" shall be construed in accordance with regulation 7;

"service user" means a person to whom an agency –

(a) supplies a nurse who is employed by the agency; or

(b) provides services for the purpose of supplying the service user with a nurse for employment by that service user;

"service user's guide" means the written guide produced in accordance with regulation 5;

"social care worker" has the same meaning as in section 2(2) of the Health and Personal Social Services Act (Northern Ireland) 2001(**4**);

"statement of purpose" means the written statement compiled in accordance with regulation 4.

(2) In these Regulations, references to the supply of a nurse mean –

(a) the supply of a nurse who is employed for the purposes of an agency to act for and under the control of another person; and

(b) the introduction of a nurse by an agency to a service user for employment by that service user.

(3) In the definition of "service user" in paragraphs (1) and (2), the terms "employed" and "employment" include employment under a contract for services.

Excepted agencies

3. For the purposes of the Order, an HSS trust which supplies nurses to work solely for other HSS trusts shall be excepted from being a nursing agency.

Statement of purpose

4.—(1) The registered person shall compile in relation to the agency a written statement which shall consist of a statement as to the matters listed in Schedule 1.

(**3**) S.I. 2002/253
(**4**) 2001 c. 3 (N.I.)

(2) The registered person shall supply a copy of the statement of purpose to the Regulation and Improvement Authority and shall make a copy of it available on request for inspection by every service user and any person acting on behalf of a service user.

(3) Nothing in regulation 21 shall require or authorise the registered person to contravene, or not to comply with –

(a) any other provision of these Regulations; or

(b) the conditions for the time being in force in relation to the registration of the registered person under Part III of the Order.

Service user's guide

5.—(1) The registered person shall prepare a service user's guide which shall include –

(a) a summary of the statement of purpose;

(b) the terms and conditions in respect of the services to be provided to service users, including as to the amount and method of payment of fees;

(c) a summary of the complaints procedure established in accordance with regulation 19; and

(d) details of how patients can engage with inspectors, including the address and telephone number of the Regulation and Improvement Authority.

(2) The registered person shall make a copy of the service user's guide available on request by every service user and any person acting on behalf of a service user.

Review of statement of purpose and service user's guide

6. The registered person shall –

(a) keep under review and, where appropriate, revise the statement of purpose and the service user's guide; and

(b) notify the Regulation and Improvement Authority of any material revision within 28 days.

PART II

REGISTERED PERSONS

Fitness of registered provider

7.—(1) A person shall not carry on an agency unless he is fit to do so.

(2) A person is not fit to carry on an agency unless the person –

(a) is an individual, who carries on the agency –

(i) otherwise than in partnership with others, and he satisfies the requirements set out in paragraph (3);

(ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);

(b) is a partnership, and each of the partners satisfies the requirements set out in paragraph (3);

(c) is an organisation and –

(i) the organisation has given notice to the Regulation and Improvement Authority of the name, address and position in the organisation of an individual who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and

(ii) that individual satisfies the requirements set out in paragraph (3).

(3) The requirements are that –

(a) he is of integrity and good character;

(b) he is physically and mentally fit to carry on the agency; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

(4) A person shall not carry on an agency if –

(a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or

(b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

Appointment of manager

8.—(1) The registered provider shall appoint an individual to manage the agency where –

(a) there is no registered manager in respect of the agency; and

(b) the registered provider –

(i) is an organisation or a partnership; or

(ii) is not a fit person to manage an agency; or

(iii) is not, or does not intend to be, in full-time day to day charge of the agency.

(2) Where the registered provider appoints a person to manage the agency, he shall forthwith give notice to the Regulation and Improvement Authority of –

(a) the name of the person so appointed; and

(b) the date on which the appointment is to take effect.

Fitness of manager

9.—(1) A person shall not manage an agency unless he is fit to do so.

(2) A person is not fit to manage an agency unless –

(a) he is of integrity and good character;

(b) having regard to the size of the agency, its statement of purpose and the number and needs of the service users –

(i) he is a nurse;

(ii) he has the qualifications, knowledge, skills and competencies necessary to manage the agency; and

(iii) he is physically and mentally fit to do so; and

(c) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.

Registered person – general requirements and training

10.—(1) The registered provider and the registered manager shall, having regard to the size of the agency, its statement of purpose and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.

(2) If the registered provider is –

(a) an individual, he shall undertake;

(b) an organisation, it shall ensure that the responsible individual undertakes; or

(c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has –

(a) the experience and skills necessary for managing the agency; and

(b) appropriate supervision and performance appraisal skills.

Notification of offences

11. Where the registered person or the responsible individual is convicted of any criminal offence, whether in Northern Ireland or elsewhere, he shall forthwith give notice in writing to the Regulation and Improvement Authority of –

(i) the date and place of the conviction;

(ii) the offence of which he was convicted; and

(iii) the penalty imposed on him in respect of the offence.

PART III

CONDUCT OF NURSING AGENCIES

CHAPTER 1

QUALITY OF SERVICE PROVISION

Fitness of nurses supplied by an agency

12.—(1) The registered person shall ensure that no nurse is supplied by the agency unless –

(a) he is of integrity and good character;

(b) he has the qualifications, knowledge, skills and competencies which are necessary for the work which he is to perform;

(c) he is physically and mentally fit for that work; and

(d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 3.

(2) The registered person shall ensure that the recruitment process for the supply of nurses is managed by a nurse, that selection of a nurse for supply is made by a nurse and that full and satisfactory information in respect of each of the matters listed in Schedule 2 is available in relation to the nurse carrying out the selection.

(3) The registered person shall ensure that every nurse supplied by the agency acting as an employment business is instructed that when working for a service user he must at all times wear identification showing his name, signature, the name of the agency, contact number, a recent photograph and the expiry date of the card.