
D I R E C T I O N S

NATIONAL HEALTH SERVICE ACT 2006

ENGLAND

Alternative Provider Medical Services Directions 2010

The Secretary of State for Health, in exercise of the powers conferred by sections 8 and 273(1) of the National Health Service Act 2006^(a), gives the following Directions.

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PART 1
GENERAL

Citation, commencement and application

1.—(1) These Directions may be cited as the Alternative Provider Medical Services Directions 2010 and come into force on 14th April 2010.

(2) These Directions are given to Primary Care Trusts in England.

Interpretation

2.—(1) In these Directions—

“the 2006 Act” means the National Health Service Act 2006;

“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 their sole control; and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

“APMS” means arrangements made under section 83(2)(b) of the 2006 Act (primary medical services) for the provision of primary medical services, and includes any arrangements which are made in reliance on a combination of section 83(2)(b) of the 2006 Act and any other powers available to a Primary Care Trust, and “APMS contract” and “APMS contractor” shall be construed accordingly;

“bank holiday” means any day that is specified or proclaimed as a bank holiday in England and Wales in accordance with section 1 of the Banking and Financial Dealings Act 1971(a);

“core hours” means the period defined as core hours in the APMS contract, which must, as a minimum, be equivalent to the period defined as core hours in the PMS Agreements Regulations but which may, by agreement between the APMS contractor and the Primary Care Trust, be more extensive than the period defined as core hours in the PMS Agreements Regulations and in the absence of any such specific agreement as to the definition of core hours which is to apply in the APMS contract, core hours has the same meaning as in the PMS Agreements Regulations;

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

“essential services” means the services described in regulation 15(3), (5), (6) and (8) of the GMS Contracts Regulations (essential services) or services that are equivalent to those services and which are provided during core hours;

“ETP service” means the electronic prescription service which forms part of the NHS Care Record Service;

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

“health service body” has the same meaning as in section 9(4) of the 2006 Act.

“licensing body” means any body that licenses or regulates any profession;

“list of patients” means in relation to an APMS contractor, the list maintained in respect of that contractor by the Primary Care Trust under direction 14;

“local pharmaceutical services” has the same meaning as in regulation 2 of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002(d);

“national disqualification” has the same meaning as in the PMS Agreements Regulations(e);

“NHS Care Record Service” means the information technology systems procured by the Department of Health and used by the health service to hold medical records relating to patients;

“NHS contract” has the meaning given to it in section 9 of the 2006 Act;

“out of hours period” means—

- (a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day,
- (b) the period between 6.30pm on Friday and 8am on the following Monday, and
- (c) Good Friday, Christmas Day and bank holidays,

except where the period defined as core hours in the APMS contract is different from the period defined as core hours in the PMS Agreement Regulations, in which case “out of hours period” in the APMS contract means those periods which fall outside the periods defined as core hours in that contract;

“out of hours services” means services required to be provided in all or part of the out of hours period which would be essential services if provided to the APMS contractor’s patients in core hours;

(a) 1971 c.80.

(b) 2000 c.7 as amended by the Communications Act 2003 (c.21).

(c) S.I. 2004/291 as amended by S.I. 2004/906 and 2694, 2005/28, 893, 3315 and 3491, 2006/1501, 2007/3491, 2008/528, 1514 and 1700, 2009/309, 2205 and 2230 and 2010/22, 234 and 578.

(d) S.I. 2002/888, to which there are no amendments relevant to these Directions.

(e) The definition of “national disqualification” was amended by S.I. 2005/3491 to include reference to regulations made under section 28X(4) of the National Health Act 1977. The definition was further amended by S.I. 2010/22 to include reference to the First-tier Tribunal, to which the functions of the Family Health Services Appeal Authority were transferred on 18th January 2010, and by S.I. 2010/578 as a consequence of the abolition of the Family Health Services Appeal Authority.

“patient” means a person to whom the APMS contractor is required to provide primary medical services under its APMS contract;

“PMS Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004(a);

“prescriber”(b) has the same meaning as in regulation 2 of the PMS Agreements Regulations;

“primary care list”(c) has the same meaning as in regulation 2 of the PMS Agreements Regulations;

“registered patient” means a person—

- (a) who is recorded by the Primary Care Trust in accordance with direction 14 as being on the APMS contractor’s list of patients, or
- (b) whom the APMS contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Primary Care Trust and who has not been notified by the Primary Care Trust as having ceased to be on that list;

“repeatable prescriber” means a prescriber who is—

- (a) engaged or employed by an APMS contractor which provides repeatable prescribing services under the terms of its APMS contract, or
- (b) a party to an APMS contract under which such services are provided;

“repeatable prescribing services” means services which involve the prescribing of drugs, medicines or appliances on a repeatable prescription; and

“repeatable prescription” means a prescription which—

- (a) either—
 - (i) is contained in a form provided by a Primary Care Trust and issued by a repeatable prescriber which is in the format set out in respect of form FP10SS repeatable prescription (authorising form) in the document issued by the NHS Business Services Authority(d) entitled “Prescription Form Overprint Specifications – GP System Prescription Overprint Specification”, version 2 dated August 2006(e) and which is generated by a computer and signed in ink by a repeatable prescriber; or
 - (ii) where the requirements of paragraph 38A(1) of Schedule 5 to the PMS Agreements Regulations(f), as modified by direction 6(1)(e), apply, consists of data that are created in an electronic form, signed with a repeatable prescriber’s advanced electronic signature and transmitted as an electronic communication to the ETP service,
- (b) is issued or created to enable a person to obtain pharmaceutical services or local pharmaceutical services, and
- (c) indicates that the drugs, medicines or appliances ordered on that prescription may be provided more than once and specifies the number of occasions on which they may be provided.

(2) In relation to a requirement in these Directions to include terms having the effect specified in provisions of the PMS Agreements Regulations, those terms shall be read as if references in the PMS Agreements Regulations to—

- (a) “an agreement” or “the agreement” were to “an APMS contract” or “the APMS contract”;

(a) S.I. 2004/627 as amended by S.I. 2004/906 and 2694, 2005/28, 893, 3315 and 3491, 2006/1501, 2007/3491, 2008/528, 1514 and 1700, 2009/309, 2205 and 2230 and 2010/22, 234 and 578.

(b) The definition of “prescriber” was amended by S.I. 2006/1501 to include reference to a pharmacist independent prescriber and by S.I. 2009/2205 to include reference to an optometrist independent prescriber.

(c) The definition of “primary care list” was amended by S.I. 2008/1700 to include reference to primary ophthalmic services.

(d) The NHS Business Services Authority is a Special Health Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (S.I. 2005/2414). Relevant amendments were made by S.I. 2006/632 and 2007/1201.

(e) The overprint specification can be found at <http://www.nhsbsa.nhs.uk/PrescriptionServices/938.aspx>.

(f) Paragraph 38A was inserted by S.I. 2005/893 and amended by S.I. 2007/3491 to make provision in relation to the use of home oxygen order forms and in respect of adults who lack capacity.

- (b) “the contractor” or “a contractor” were to “the APMS contractor” or “an APMS contractor”;
- (c) “the relevant body” were to “the Primary Care Trust”; and
- (d) provisions of those Regulations were to corresponding provisions of these Directions where these Directions require an equivalent term to be included in an APMS contract.

Minimum standards

3. Nothing in these Directions shall prevent a Primary Care Trust agreeing terms of an APMS contract which require a higher level of performance by the APMS contractor than would otherwise be required under these Directions.

PART 2
PROVIDER CONDITIONS

Provider Conditions

4.—(1) A Primary Care Trust may not enter into an APMS contract with an individual if that individual falls within paragraph (5).

(2) A Primary Care Trust may not enter into an APMS contract with a company if—

- (a) that company; or
- (b) any director or secretary of the company,

falls within paragraph (5).

(3) A Primary Care Trust may not enter into an APMS contract with a partnership if—

- (a) any individual member of the partnership; or
- (b) the partnership,

falls within paragraph (5).

(4) A Primary Care Trust may not enter into an APMS contract with an industrial and provident society^(a), a friendly society, a voluntary organisation^(b) or any other body if—

- (a) the society, organisation or body; or
- (b) any officer, trustee or any other person concerned with the management of the society, organisation or body,

falls within paragraph (5).

(5) A person, partnership or body falls within this paragraph if—

- (a) they are the subject of a national disqualification;
- (b) subject to paragraph (6), they are disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;
- (c) within the period of five years prior to the signing of the APMS contract or commencement of the APMS contract, whichever is the earlier, they have been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless they have subsequently been employed by that health service body or another health service body and paragraph (7) applies to them or that dismissal was the subject of a finding of unfair dismissal by any competent tribunal or court;

(a) An industrial and provident society is an organisation registered under the Industrial and Provident Societies Act 1965 (c.12). To register a society must be conducting an industry, business or trade; and must either be a co-operative society or the business of the society must be conducted for the benefit of the community.

(b) “Voluntary organisation” is defined in section 275(1) of the 2006 Act.

- (d) within the period of five years prior to signing the APMS contract or commencement of the APMS contract, whichever is the earlier, they have been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the 2006 Act respectively) unless their name has subsequently been included in such a list;
- (e) they have been convicted in the United Kingdom of murder;
- (f) they have been convicted in the United Kingdom of a criminal offence other than murder, committed on or after 1st April 2002, and have been sentenced to a term of imprisonment of over six months;
- (g) subject to paragraph (8) they have been convicted elsewhere of an offence—
 - (i) which would, if committed in England and Wales, constitute murder, or
 - (ii) committed on or after 3rd November 2003, which would, if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (h) they have been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933(a) (offences against children and young persons with respect to which special provisions of the Act apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1995(b) (offences against children under the age of 17 years to which special provisions apply) committed on or after 1st April 2004;
- (i) they have—
 - (i) been adjudged bankrupt or had sequestration of their estate awarded unless (in either case) they have been discharged or the bankruptcy order has been annulled,
 - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(c) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(d) unless that order has ceased to have effect or has been annulled, or
 - (iii) made a composition or arrangement with, or granted a trust deed for, their creditors unless they have been discharged in respect of it;
- (j) an administrator, administrative receiver or receiver is appointed in respect of it;
- (k) within the period of five years prior to signing the APMS contract or commencement of the APMS contract, whichever is the earlier, they have been—
 - (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which they were responsible or to which they were privy, or which they by their conduct contributed to or facilitated, or
 - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(e) (powers of the Court of Session to deal with management of charities) or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(f) (powers of Court of Session) from being concerned in the management or control of any body; or

(a) 1933 c.12 as amended by the Sexual Offences Act 1956 (c. 69), sections 48 and 51 and Schedules 3 and 4; the Criminal Justice Act 1988 (c.33), section 170, Schedule 15, paragraph 8 and Schedule 16, paragraph 16; the Sexual Offences Act 2003 (c.42), section 139 and Schedule 6, paragraph 7; the Domestic Violence, Crime and Victims Act 2004 (c.28), section 58 and Schedule 10, paragraph 2; and the Coroners and Justice Act 2009 (c.25), s177 and Schedule 21, paragraph 53; and as modified by the Criminal Justice Act 1988, section 170(1) and Schedule 15, paragraph 9.

(b) 1995 c.46.

(c) 1986 c.45. Schedule 4A was inserted by section 257 of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(d) S.I. 1989/2405 (N.I. 19). Schedule 2A was inserted by article 13 of, and Schedule 5 to, the Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455) (N.I. 10).

(e) 1990 c.40.

(f) 2005 asp 10.

- (l) they are subject to a disqualification order under the Company Directors Disqualification Act 1986(a), the Companies (Northern Ireland) Order 1986(b) or to an order made under section 429(2)(b) of the Insolvency Act 1986(c) (failure to pay under county court administration order).

(6) A person shall not fall within paragraph (5)(b) where the Primary Care Trust is satisfied that the disqualification or suspension from practising is imposed by a licensing body outside the United Kingdom and it does not make the person unsuitable to be—

- (a) a party to an APMS contract;
- (b) in the case of an APMS contract with a company, a director or company secretary of a company entering into an APMS contract; or
- (c) in the case of an APMS contract with—
 - (i) an industrial and provident society,
 - (ii) a friendly society,
 - (iii) a voluntary organisation or
 - (iv) another body,an officer, trustee or other person concerned with the management of such a society, organisation or other body entering into an APMS contract.

(7) Where a person has been employed as a member of a health care profession any subsequent employment must also be as a member of that profession.

(8) A person shall not fall within paragraph (5)(g) where the Primary Care Trust is satisfied that the conviction does not make the person unsuitable to be—

- (a) a party to an APMS contract;
- (b) in the case of a company, a director or company secretary of a company entering into an APMS contract; or
- (c) in the case of an APMS contract with—
 - (i) an industrial and provident society,
 - (ii) a friendly society,
 - (iii) a voluntary organisation or
 - (iv) another body,an officer, trustee or other person concerned with the management of such a society, organisation or other body entering into an APMS contract.

PART 3

MANDATORY TERMS FOR APMS CONTRACTS

General terms

5. A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract—

- (a) states that it is an NHS contract where the contract is to be an NHS contract because the APMS contractor is an NHS body or is to be regarded as such a body by virtue of regulation 9 of the PMS Agreements Regulations or regulation 10 of the GMS Contracts Regulations;

(a) 1986 c.46 as amended by the Insolvency Act 2000 (c.39).
(b) S.I.1986/1032 (N.I.6).
(c) 1986 c.45.

- (b) specifies who the APMS contractor is to provide services to under the APMS contract, including where appropriate by reference to an area within which a person resident would be entitled to receive services under the APMS contract;
- (c) specifies that the APMS contractor must not sell, assign or otherwise dispose of the benefit of any of its rights under the APMS contract without the prior consent of the Primary Care Trust;
- (d) subject to direction 6(1)(j), specifies the circumstances (if any) in which any obligations under the APMS contract may be sub-contracted;
- (e) specifies the grounds (in addition to those required by direction 6(1)(u), (v) and (w)) on which the APMS contract may or must be terminated and any contract sanctions; and
- (f) specifies in the case of a contract which is not an NHS contract, the procedures that are to apply in the event of a contractual dispute.

Other contractual terms

6.—(1) A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract contains terms which have the effect specified in the following provisions of Schedule 5 (other contractual terms) to the PMS Agreements Regulations—

- (a) paragraph 2 (premises);
- (b) paragraph 2A (telephone services)(a) and paragraph 2B (cost of relevant calls)(b);
- (c) paragraph 5 (clinical reports), but as if in sub-paragraph (4) the words from “which is required” to the end were omitted;
- (d) paragraphs 6 (storage of vaccines) and 7 (infection control);
- (e) paragraphs 37 and 38 (prescribing)(c), 38A (electronic prescriptions)(d), 38B (nomination of dispensers for the purpose of electronic prescriptions)(e), 39 (repeatable prescribing services), 40 (repeatable prescriptions)(f), 41 (restrictions on prescribing by medical practitioners), 42 (restrictions on prescribing by supplementary prescribers)(g), 43 (bulk prescribing)(h), 44(1) (excessive prescribing)(i) and 52 (provision of drugs, medicines and appliances for immediate treatment or personal administration), but as if—
 - (i) in paragraph 41, references to “regulation 15(2)(b)” were references to “direction 9(a)(ii)”, and
 - (ii) any requirement for a repeatable prescription to include the name of the contractor were omitted;
- (f) paragraphs 53(j) to 56 (qualifications of performers), but as if in paragraph 53 sub-paragraph (2)(a) were omitted;
- (g) paragraphs 60(1) and (3) (conditions for employment and engagement), 61 and 62 (training) and 63 (arrangements for GP Registrars)(k);

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- (a) Paragraph 2A was inserted by S.I. 2005/893.
 - (b) Paragraph 2B was inserted by S.I. 2010/578.
 - (c) Paragraphs 37 and 38 were amended by S.I. 2004/2694 and 2005/893; by S.I. 2007/3491 to make provision in relation to the use of home oxygen order forms; and by S.I. 2009/2230 to make provision in relation to the use of listed medicines and listed medicines vouchers.
 - (d) Paragraph 38A was inserted by S.I. 2005/893 and amended by S.I. 2007/3491 to make provision in relation to the use of home oxygen order forms and in respect of adults who lack capacity.
 - (e) Paragraph 38B was inserted by S.I. 2005/893.
 - (f) Paragraphs 39 and 40 were amended by S.I. 2005/893.
 - (g) Paragraphs 41 and 42 were amended by S.I. 2005/893; and by 2009/2230 to make provision in relation to listed medicines and listed medicines vouchers.
 - (h) Paragraph 43 was amended by S.I. 2005/893.
 - (i) Paragraph 44(1) was amended by S.I. 2010/578.
 - (j) Paragraph 53 was amended by S.I. 2004/2694; by S.I. 2006/1501 to make provision in relation to those undertaking a programme of post-registration supervised clinical practice; and by S.I. 2010/234 as a consequence of the abolition of the Postgraduate Education and Training Board and the transfer of its functions to the General Medical Council. The definitions of “CCT”, “general medical practitioner” and “GP Registrar” in regulation 2 of the PMS Agreements Regulations, which are relevant to paragraph 53, were also amended by S.I. 2010/234.
 - (k) Paragraph 63 was amended by S.I. 2004/2694.

- (h) paragraph 66 (signing of documents)(a);
- (i) paragraph 67 (level of skill);
- (j) paragraph 69(5) (sub-contracting clinical matters)(b);
- (k) paragraphs 70(2) (patient records) and 71 (confidentiality of personal data);
- (l) paragraph 73 (provision of information)(c);
- (m) paragraphs 75 (inquiries about prescriptions and referrals)(d) and 76 (provision of information to a medical officer etc.)(e);
- (n) paragraph 77 (annual return and review)(f), but as if in sub-paragraph (1) the words from “which shall require” to the end were omitted;
- (o) paragraphs 78 and 79 (notifications to the relevant body)(g);
- (p) paragraph 81 (notification of deaths);
- (q) paragraphs 83 (entry and inspection by the relevant body), 85 (entry and inspection by Care Quality Commission)(h) and 85A (entry and viewing by local involvement network representatives)(i);
- (r) paragraphs 86 (complaints procedure) and 91 (co-operation with investigations)(j), but as if in paragraph 86 sub-paragraph (3) were omitted;
- (s) paragraph 98 (variation of an agreement: general), but as if—
 - (i) in sub-paragraph (1), the words “and paragraphs 69(3) and 109,” were omitted(k), and
 - (ii) in sub-paragraph (2), the words “In addition to the specific provision made in paragraph 109,” were omitted;
- (t) paragraph 99A (termination on death)(l), but as if the reference in sub-paragraph (2) to “paragraphs 104 to 107” were to the terms included in the APMS contract in accordance with sub-paragraphs (u) to (w) of this paragraph;
- (u) paragraph 104 (termination by the relevant body for the provision of untrue etc information)(m), but as if—
 - (i) for the words from “by the contractor” to “paragraph 80(2) or (3)” there were substituted “by the contractor before the agreement was entered into”, and
 - (ii) the reference to regulation 5 was to direction 4(n);
- (v) paragraph 105 (termination by the relevant body on fitness grounds)(o) but as if sub-paragraphs (1) and (2) were substituted as follows—

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- (a) Paragraph 66 was substituted by 2005/3315 to provide that certain forms do not need to include the name of the contractor on whose behalf the form was signed and was further amended by S.I. 2007/3491 to make provision regarding the details required to be included on home oxygen order forms.
 - (b) Paragraph 69(5) was inserted by S.I. 2004/906.
 - (c) Paragraph 73 was amended by S.I. 2004/2694.
 - (d) Paragraph 75 was amended by S.I. 2005/893
 - (e) Paragraph 76 was substituted by S.I. 2010/578 to provide for the provision of information to certain health care professionals employed or engaged by the Department for Work and Pensions or provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions.
 - (f) Paragraph 77 was amended by S.I. 2004/2694.
 - (g) Paragraph 78 was amended by S.I. 2005/893.
 - (h) Paragraph 85 was amended by S.I. 2010/578.
 - (i) Paragraph 85A was inserted by S.I. 2008/1514.
 - (j) Paragraph 86 was substituted and paragraph 91 was amended by S.I. 2009/309.
 - (k) A reference to paragraph 69(3) was substituted for the reference to paragraph 70(3) in paragraph 98(1) of the PMS Agreements Regulations by S.I. 2004/2694, regulation 15(17).
 - (l) Paragraph 99A was inserted by S.I. 2005/893
 - (m) Paragraph 104 was amended by S.I. 2005/893.
 - (n) The reference to regulations 4 and 5 in paragraph 104 of Schedule 5 to the PMS Agreements Regulations was amended to refer to regulation 5 only by S.I. 2004/2694, regulation 15(19).
 - (o) Paragraph 105 was amended by S.I. 2007/3491 to include reference to certain bankruptcy provisions relating to Northern Ireland and by S.I. 2010/578 to update reference to the provisions relating to removal of a person being concerned in the management or control of a charity or body as a consequence of the Charities and Trustee Investment (Scotland) Act 2005.

“**105.**—(1) The Primary Care Trust may serve notice in writing terminating the APMS contract forthwith, or from such date as may be specified in the notice if—

- (a) in the case of an APMS contract with an individual, the individual;
- (b) in the case of an APMS contract with a company—
 - (i) the company, or
 - (ii) any director or company secretary of the company;
- (c) in the case of an APMS contract with a partnership—
 - (i) any individual member of the partnership, or
 - (ii) the partnership; or
- (d) in the case of an APMS contract with an industrial and provident society, a friendly society, a voluntary organisation or any other body—
 - (i) the society, organisation or other body, or
 - (ii) an officer, trustee or any other person concerned with the management of the society, organisation or body,

falls within sub-paragraph (3) during the existence of the APMS contract.”

- (w) paragraphs 106 (termination by the relevant body where there is a serious risk to the safety of patients etc) and 106A (termination by the relevant body for unlawful sub-contracting)(a);
- (x) paragraphs 112 and 112A (which relate to clinical governance)(b);
- (y) paragraphs 113(c) and 114(d) (insurance);
- (z) paragraph 115 (compliance with legislation and guidance);
- (aa) paragraph 116 (third party rights); and
- (bb) paragraph 117 (gifts)(e), but as if—
 - (i) in sub-paragraph (2)—
 - (aa) paragraphs (a) and (b) were omitted; and
 - (bb) in paragraphs (e) and (f), references to “paragraphs (b) to (d)” were to “paragraphs (c) and (d)”, and
 - (ii) in sub-paragraph (4), the reference to “sub-paragraph (2)(b) to (f)” were to “sub-paragraph (2)(c) to (f)”.

(2) A Primary Care Trust which wishes to enter into an APMS contract shall consider whether the APMS contract should require the contractor to keep a register of gifts given to the following persons (in addition to the persons who the APMS contractor is required to record gifts given to in accordance with paragraph (1)(bb))—

- (a) the APMS contractor;
- (b) where the APMS contractor is a company, any director or company secretary of the company;
- (c) where the APMS contractor is a partnership, any member of the partnership; or
- (d) where the APMS contractor is an industrial and provident society, a friendly society, a voluntary organisation or any other body, an officer, trustee or any other person concerned with the management of the society, organisation or body.

(a) Paragraph 106A was inserted by S.I. 2004/906.

(b) Paragraph 112 was amended by S.I. 2007/3491 to provide that the required system of clinical governance should include appropriate standard operating procedures in relation to the management and use of controlled drugs. Paragraph 112A was inserted by S.I. 2007/3491.

(c) Paragraph 113 was amended by S.I. 2004/2694.

(d) Paragraph 114 was amended by S.I. 2005/893.

(e) Paragraph 117 was amended to include reference to “civil partner” by S.I. 2005/3315.

Certificates

7. A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract contains terms having the effect specified in regulation 12 (certificates)(a) of, and Schedule 2 (list of prescribed medical certificates) to, the PMS Agreements Regulations.

Appraisal and assessment of performers of APMS

8. A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract requires the APMS contractor to ensure that any medical practitioner performing medical services under the APMS contract—

- (a) participates in an appropriate appraisal system; and
- (b) co-operates with the National Patient Safety Agency(b) when requested to do so by the Primary Care Trust.

Charges

9. A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract—

- (a) prohibits the APMS contractor, either itself or through any other person, from demanding or accepting from any of its registered patients a fee or other remuneration, for its own or another's benefit for—
 - (i) the provision of any treatment whether under the APMS contract or otherwise, or
 - (ii) any prescription or repeatable prescription for any drug, medicine or appliance, except in the circumstances set out in Schedule 3 to the PMS Agreements Regulations;
- (b) prohibits the APMS contractor, either itself or through any other person, from demanding or accepting from any of its patients other than registered patients a fee or other remuneration, for its own or another's benefit for—
 - (i) the provision of any treatment under the APMS contract; or
 - (ii) any prescription or repeatable prescription for any drug, medicine or appliance in connection with that treatment;
- (c) contains terms having the same effect as those specified in regulation 15(3) and (4) of the PMS Agreements Regulations (fees and charges); and
- (d) requires the APMS contractor in the provision of services to patients under the APMS contract—
 - (i) to provide information regarding services it provides otherwise than under the APMS contract only where appropriate,
 - (ii) where it does provide such information, to ensure that the information provided is fair and accurate, and
 - (iii) where the other services are available to the patient as part of the health service established under section 1 of the 2006 Act, to inform the patient—
 - (aa) that the services are so available;
 - (bb) of any charge that applies to that health service and, if no such charge applies, that the service is free; and
 - (cc) how to access those health services.

(a) Regulation 12(2) was substituted by S.I. 2010/578 as a consequence of the introduction in the Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (S.I. 2010/137) of new rules relating to medical evidence.

(b) The National Patient Safety Agency is established as a Special Health Authority by the National Patient Safety Agency (Establishment and Constitution) Order 2001 (S.I. 2001/1743). Relevant amendments were made by S.I. 2005/504.

Financial interests

10.—(1) A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract requires the APMS contractor in making a decision—

- (a) to refer a patient for other services under the 2006 Act; or
- (b) to prescribe any drug, medicine or appliance to a patient,

to do so without regard to its own financial interests.

(2) The Primary Care Trust must ensure that an APMS contract contains a term having the effect of prohibiting the APMS contractor from informing patients that any prescription or repeatable prescription for any drug, medicine or appliance must be dispensed only by the APMS contractor or a person with whom the APMS contractor is associated.

Consequences of termination of an APMS contract

11. A Primary Care Trust which wishes to enter into an APMS contract must ensure that the APMS contract makes suitable provision for the arrangements on termination of an APMS contract, including the consequences (whether financial or otherwise) of the APMS contract ending.

PART 4

MANDATORY TERMS OF AN APMS CONTRACT UNDER WHICH ESSENTIAL SERVICES ARE TO BE PROVIDED

Mandatory terms of an APMS contract under which essential services are to be provided

12.—(1) A Primary Care Trust which wishes to enter into an APMS contract under which essential services are to be provided must ensure (in addition to the requirements specified in directions 5 to 11) that the APMS contract contains terms which have the effect specified in the following provisions of Schedule 5 (other contractual terms) to the PMS Agreements Regulations—

- (a) paragraph 3 (attendance at practice premises);
- (b) paragraphs 10 and 11 (duty of co-operation);
- (c) paragraph 17 (patient preference of practitioner)(**a**);
- (d) paragraph 70(1) and (3) to (10) (patient records)(**b**);
- (e) paragraph 72 (contractor’s leaflet); and
- (f) paragraph 82 (notifications to patients following variation of the agreement), but as if the words “in accordance with Part 8 of this Schedule” were omitted.

(2) The Primary Care Trust must ensure that that the APMS contract contains a term requiring the APMS contractor to make available to the Primary Care Trust a copy of the leaflet referred to in paragraph 72 of Schedule 5 to the PMS Agreements Regulations and any subsequent updates of that leaflet.

(3) The Primary Care Trust must ensure that the APMS contract makes provision as to the circumstances (if any) in which the Primary Care Trust may assign patients to the contractor and where appropriate, as to whether the APMS contractor’s list of patients is to be regarded as open or closed and in what circumstances the status of the list may change.

(a) Paragraph 17 was amended by S.I. 2007/3491 in respect of adults who lack capacity.

(b) Paragraph 70 was amended by S.I. 2005/3315 so as to provide that regard should be had to good practice guidelines published in July 2005 and by S.I. 2010/578 to update the reference to the requirements in respect of a contractor’s computer system.

(4) The Primary Care Trust must ensure that the APMS contract makes provision as to the circumstances (if any) in which the APMS contractor is required to attend a patient otherwise than at the contractor's premises.

PART 5

MANDATORY TERM FOR AN APMS CONTRACT UNDER WHICH OUT OF HOURS SERVICES ARE TO BE PROVIDED

Mandatory term for an APMS contract under which out of hours services are to be provided

13. Where a Primary Care Trust wishes to enter into an APMS contract under which out of hours services are to be provided, it must ensure (in addition to the requirements specified in directions 5 to 11) that the APMS contract shall require the APMS contractor, in the provision of such services, to meet the quality requirements set out in the document entitled "National Quality Requirements in the Delivery of Out of Hours Services" published on 20th July 2006(a).

PART 6

PATIENT LISTS

Patient Lists

14. Where an APMS contract requires an APMS contractor to provide essential services and to have a list of patients, the Primary Care Trust must prepare and keep up to date a list of the patients—

- (a) who have been accepted by the APMS contractor for inclusion in the APMS contractor's list of patients in accordance with the terms of the APMS contract and who have not subsequently been removed from that list in accordance with the terms of the APMS contract; and
- (b) where applicable, who have been assigned to the APMS contractor in accordance with the terms of the APMS contract and whose assignment has not been rescinded.

PART 7

MISCELLANEOUS

APMS contracts entered into before the coming into force of these Directions

15.—(1) Where a Primary Care Trust has entered into an APMS contract before the coming into force of these Directions which does not comply with these Directions, it must enter into negotiations with the APMS contractor with a view to agreeing variations to the APMS contract to make it compatible with these Directions.

(2) Where a Primary Care Trust has power under an APMS contract to impose a variation of the APMS contract, it must where necessary (and in particular where the negotiations envisaged under paragraph (1) have failed) exercise that power so as to ensure that the APMS contract is compatible with these Directions.

(a) The document "National Quality Requirements in the Delivery of Out of Hours Services" published on 20th July 2006 can be accessed on the website http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4137271 or a copy may be obtained by writing to Primary Care, Room 4N34E, Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

PART 8
TRANSITIONAL PROVISION AND REVOCATION

Transitional arrangements in relation to telephone services

16.—(1) Where—

- (a) in accordance with direction 15, an APMS contract has been varied to include a term which gives effect to paragraph 2A (telephone services) of Schedule 5 to the PMS Agreements Regulations; and
- (b) as a result of that variation, an APMS contractor is, by virtue of a contract or other arrangement for the provision of telephone services which it entered into before the date on which that variation took effect, in breach of its APMS contract,

no action shall be taken against the APMS contractor by the Primary Care Trust in respect of that breach, provided that it complies with the conditions specified in paragraph (2).

(2) The conditions referred to in paragraph (1) are that the APMS contractor—

- (a) provides, within the time specified in the request, such details of the contract or other arrangement for telephone services as the Primary Care Trust may request; and
- (b) varies or terminates that contract or other arrangement when required to do so by the Primary Care Trust in accordance with directions from the Secretary of State under section 8 of the Act.

Revocation

17. The Alternative Provider Medical Services Directions 2009(a) are revoked.

Signed by authority of the Secretary of State for Health



A Member of the Senior Civil Service
Department of Health

13 April 2010

(a) These Directions were signed on 16th September 2009.