

## NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

### HEALTH BOARD ADDITIONAL PHARMACEUTICAL SERVICES (PUBLIC HEALTH SERVICE) (SCOTLAND) DIRECTIONS 2014

The Scottish Ministers, in exercise of the powers conferred by sections 2(5), 27A, 27B, 28A and 105(7) of the National Health Service (Scotland) Act 1978<sup>1</sup>, and all other powers enabling them to do so, give the following Directions.

#### 1. Citation and commencement

1.1 These Directions may be cited as the Health Board Additional Pharmaceutical Services (Public Health Service) (Scotland) Directions 2014 and come into force on 8 October 2014.

#### 2. Interpretation

2.1 In these Directions, unless the context otherwise requires:

“the Act” means the National Health Service (Scotland) Act 1978;

“the 2009 Regulations” means the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009<sup>2</sup>;

“Public Health Service” or “PHS” has the meaning ascribed in paragraph 3.1.

2.2 Other words and phrases used in these Directions have the same meaning as they have in the Act and in the 2009 Regulations.

2.3 any reference in these Directions:

(i) to a numbered paragraph, is a reference to a paragraph bearing that number in these Directions;

(ii) to a numbered Schedule, is a reference to the Schedule to these Directions bearing that number; and

(iii) to a numbered paragraph of a numbered Schedule, is a reference to a paragraph bearing that number in the Schedule bearing that number.

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<sup>1</sup> 1978 c.29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19), section 66(1); section 27A was inserted by the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”), section 27(2); section 28A was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 57, and amended by the Primary Medical Services (Scotland) Act 2004 (asp 1) (“the 2004 Act”), section 8, and schedule 1, paragraph 1; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, Part I, paragraph 24 and the 1999 Act, Schedule 4, paragraph 60. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

<sup>2</sup> S.S.I. 2009/183

### **3. Description of the Public Health Service**

3.1. The Public Health Service (PHS) is a service that will encourage the proactive involvement of community pharmacists and their staff in supporting self-care, offering suitable interventions to promote healthy lifestyles, participating in national and local health campaigns and the provision of a health improvement environment across the network of community pharmacies.

3.2 The services which are comprised in PHS are specified in Schedule 1, paragraphs 1 and 2.

### **4. Health Board duty to arrange for a Public Health Service**

4.1 Subject to paragraph 2 of Schedule 1 and until otherwise directed, Health Boards have a duty to arrange for the provision of a Public Health Service (PHS) for persons in their area as an additional pharmaceutical service.

### **5. Persons authorised to provide the Public Health Service**

5.1 Health Boards may only enter into arrangements for the provision of PHS with:

- (a) a person who is a registered pharmacist; or
- (b) a person other than a registered pharmacist who, by virtue of section 69 of the Medicines Act 1968<sup>3</sup>, is taken to be a person lawfully conducting a retail pharmacy business in accordance with that section;

and, in the case of both (a) and (b), who is on the pharmaceutical list maintained by the Health Board in terms of regulation 5 of the 2009 Regulations<sup>4</sup>.

5.2. The supply of medicines or appliances is to be performed by or under the direct supervision of a pharmacist.

5.3. A pharmacist providing PHS in accordance with this paragraph must not be one who:

- (a) has been disqualified under section 29B(2) of the Act; or
- (b) is suspended by direction of the Tribunal; or
- (c) is the subject of a corresponding decision in England, Wales or Northern Ireland.

### **6. Compliance and Conditions**

6.1. The arrangements made by a Health Board in accordance with paragraphs 4 and 5 shall include the terms and conditions specified in Schedule 1, 2 and 3, with which the provider of a PHS shall be obliged to comply.

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<sup>3</sup> 1968 (c.67) section 69 was amended by the Pharmacy Act 1954 (c.61), Schedule 16, the Pharmacists (Fitness to Practise) Act 1997 (c.19), section 1 and Schedule paragraph 4, and the Statute Law Repeals Act 1993 (c.50), and by SI 2007/289.

<sup>4</sup> Regulation 5 was amended by SI 1997/696, SSI 1999/57, 2004/39, 2006/143.

## **7. Payment for the provision of a Public Health Service**

7.1. Remuneration for the provision of a PHS will be paid at nationally negotiated rates as set out in the Drug Tariff and in accordance with Schedule 3 of these Directions.

7.2. The prices and methodology for calculating reimbursements to a PHS provider for any drugs, medicines or listed appliance that the provider may supply to patients in connection with providing PHS will be in accordance with the provisions set out in Part 1 of the Drug Tariff.

## **8. The Health Board Additional Pharmaceutical Services (Public Health Service) (Scotland) Directions 2008**

8.1 Subject to paragraph 8.2, these Directions revoke and supersede the Health Board Additional Pharmaceutical Services (Public Health Service) (Scotland) Directions 2008 (“the 2008 Directions”).

8.2 Notwithstanding paragraph 8.1, the 2008 Directions shall continue to apply in respect of any PHS provided during the period from 22 August 2008 until 7 October 2014.

Signed by authority of the Scottish Ministers

W Scott  
Scottish Government: A member of the Senior Civil Service

8 October 2014

## **NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978**

### **HEALTH BOARD ADDITIONAL PHARMACEUTICAL SERVICES (PUBLIC HEALTH SERVICE) (SCOTLAND) DIRECTIONS 2014**

#### **SCHEDULE 1**

##### **SERVICES TO BE PROVIDED AS A PUBLIC HEALTH SERVICE**

1. A Public Health Service (PHS) comprises the following services:
  - (a) the provision of advice to patients or members of the public on healthy living options and promotion of self-care in circumstances where in the professional opinion of the pharmacist it is appropriate to do so or by request from a patient or member of the public;
  - (b) making available for use by patients and members of the public a range of NHS or NHS approved health improvement campaign materials and other health improvement information and support material;
  - (c) participation in health improvement campaigns, each campaign being on display and visible within a pharmacy for a set period, determined nationally by Scottish Ministers following consultation with a body deemed to be representative of community pharmacy contractors;
  - (d) where agreed between a PHS provider and the Health Board, participation in locally agreed health improvement campaigns in the intervals between the national campaigns referred to at sub-paragraph (c); and
  - (e)
    - (i) the provision of a smoking cessation service comprising advice and supply of nicotine replacement therapy (NRT) and other smoking cessation products, such as varenicline, over a period of time as indicated in the service specification and NHS Board guidance, in order to help smokers successfully stop smoking; and
    - ii) the provision of a sexual health service comprising the supply of emergency hormonal contraception (EHC).
2. Where a PHS provider decides not to supply emergency hormonal contraception (EHC), they should give notice in writing to the Health Board and advise the Agency of their decision and ensure prompt referral of patients to another provider who they have reason to believe provides that service.
3. For the provision of the services listed at 1(c) and 1(d) a PHS provider shall make available space in a window of the pharmacy or, only in the absence of any suitable window, another space within the pharmacy. Such space should be made available for the full duration of the campaigns unless by agreement with the relevant Health Board because of unforeseen or special circumstances.

## SCHEDULE 2

### TERMS AND CONDITIONS OF THE PROVISION OF THE PUBLIC HEALTH SERVICE

1. For the purposes of PHS the 'patient medication record' is a pharmacy retained electronic record that as a minimum must include:
  - (a) the name and address of the patient;
  - (b) the name and address of the patient's GP practice;
  - (c) the dates of all dispensing episodes; and
  - (d) the items dispensed.

#### Provisions

2. In providing the PHS service, PHS providers will be required to:
  - (a) use materials, including leaflets and posters, provided or approved by Scottish Ministers or Health Boards;
  - (b) use the display equipment, including display stands and other devices, made available by Scottish Ministers or Health Boards, which display equipment may not be used for any commercial purpose, and make appropriate space available within the pharmacy to hold such display equipment;
  - (c) undertake the smoking cessation service and sexual health service in accordance with service specifications provided by Scottish Ministers to Health Boards, and disseminated by Health Boards to PHS providers as soon as possible after they are received.
3. In providing PHS a PHS provider and pharmacist shall:
  - (a) have regard to and, where required, comply with, stated standards and administrative guidance that is from time to time produced by Scottish Ministers and disseminated by Health Boards to PHS providers as soon as possible after they are received; and
  - (b) conform with the standards generally accepted by both the NHS and the pharmaceutical profession.
4. In providing a PHS, a PHS provider is agreeing to the following:
  - (a) that it takes responsibility for the veracity of any payment claims submitted to the Agency;

- (b) that its payment claims will be authenticated from appropriate records held by the provider or at the Agency;
  - (c) that payments will be subject to Payment Verification and the PHS provider undertakes to co-operate fully with this process; and
  - (d) that the PHS provider will provide documentary evidence to support payment claims.
5. The requirement for a complaints procedure under paragraphs 12 and 13 of Schedule 1 to the 2009 Regulations apply to the provision of a PHS.
  6. The requirement for record keeping under paragraph 14 of Schedule 1 to the 2009 Regulations apply to the provision of a PHS.

### **SCHEDULE 3**

#### **PAYMENT FOR THE PUBLIC HEALTH SERVICE**

1. The payments for providing the Public Health Service (PHS) are set out in the Drug Tariff.
2. Payments for providing the PHS under Schedule 1, Paragraph 1(d) will be at rates agreed between the NHS Board and the PHS providers.
3. Health Boards will be entitled to take such reasonable steps as are necessary to ensure that providers are:
  - (a) providing appropriate advice and support to patients and members of the public;
  - (b) making available a range of NHS or NHS approved health improvement campaign materials and information and support materials;
  - (c) displaying the agreed national campaigns, for the set periods;
  - (d) participating in locally agreed health improvement campaigns, where agreed with the Health Board; and
  - (e) providing the services named under Schedule 1.
4. Payments made to providers for providing a PHS will be subject to post payment verification checks and investigation by the Agency.
5. Where after suitable investigation a Health Board is satisfied that a PHS provider is not providing the services listed in Schedule 1 but is receiving payment under paragraph 1 and the Drug Tariff, it may (without prejudice to any other action which may be open to it):
  - (a) write to the provider advising of the conclusion reached by the investigation;
  - (b) inform the provider that the payments will be stopped with immediate effect; and
  - (c) recover any payments made to the provider in respect of any period(s) when the provider was not providing the services specified in Schedule 1.