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## DIRECTIONS

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# NATIONAL HEALTH SERVICE, ENGLAND

## The Alternative Provider Medical Services Directions 2020

The Secretary of State for Health and Social Care, in exercise of the powers conferred by sections 98A(3), 272(7) and (8) and 273(1) of the National Health Service Act 2006(a), gives the following Directions.

### PART 1 GENERAL

#### Citation and commencement

1.—(1) These Directions may be cited as the Alternative Provider Medical Services Directions 2020, and come into force on 1st October 2020

(2) These Directions are given to the National Health Service Commissioning Board(b).

#### Interpretation

2.—(1) In these Directions—

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

“APMS” means arrangements made under section 83(2) of the Act(c) (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) of the Act and any other powers available to the Board under Part 4 of the Act, and “APMS contract” and “APMS contractor” are to be construed accordingly;

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

“the Board” means the National Health Service Commissioning Board(e);

“CCG” means clinical commissioning group(f);

“core hours”, subject to direction 2A, means the period defined as core hours in the APMS contract which must be either—

(a) the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas day or bank holidays; or

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- (a) 2006 c.41. Section 98A of the National Health Service Act 2006 (“the Act”) was inserted by section 49(1) of the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). The powers conferred by these sections are exercisable by the Secretary of State only in relation to England, by virtue of section 271(1) of the Act
- (b) The National Health Service Commissioning Board (known as “NHS England”) was established by section 1H of the Act. Section 1H of the Act was inserted by section 9(1) of the 2012 Act.
- (c) Section 83 of the Act was amended by paragraph 30 of Schedule 4 to the 2012 Act.
- (d) 1971 c.80.
- (e) The National Health Service Commissioning Board was established by section 1H of the Act. Section 1H was inserted by section 9(1) of the 2012 Act.
- (f) Clinical commissioning groups were established by virtue of sections 11 and 14A to 14D of the Act, as inserted by sections 10 and 25(1) of the 2012 Act.

(b) such other more extensive period as is agreed between the APMS contractor and the Board in the case of any particular APMS Contract;

“essential services” means the services that are described in regulation 17 of the GMS Contracts Regulations(a), or services that are equivalent to those services and which are provided during core hours;

“GMS Contracts Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2015(b);

“health service body” has the meaning given in section 9(4) of the Act(c) (NHS contracts);

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

“list of patients” means, in relation to an APMS contractor, the list maintained in respect of that contractor by the Board under direction 17;

“national disqualification” has the meaning given in regulation 3 of the PMS Agreements Regulations(d);

“NHS contract” has the meaning given in section 9 of the Act (NHS contracts);

“out of hours period”, subject to direction 2A, means—

(a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8.00am on the following day;

(b) the period beginning at 6.30pm on Friday and ending at 8.00am 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 Agreements 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;

“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 2015(e);

“practice premises” has the meaning given in regulation 3 of the PMS Agreements Regulations;

“primary care list” has the meaning given in regulation 3 of the PMS Agreements Regulations;

“primary care network” has the meaning given in paragraph 10A(3) of Part 1 of Schedule 2 to the PMS Agreements Regulations(f);

“primary medical services” means medical services provided under or by virtue of a contract or agreement to which Part 4 of the Act applies;

“private services” has the meaning given in regulation 3 of the PMS Agreements Regulations(g);

“registered patient” means a person—

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(a) S.I. 2015/1862, as amended by S.I. 2016/211, 481, 696, 875 and 1077, 2017/908, 2018/844 and 1114, 2019/1137 and 2020/226, 351 and 911.

(b) S.I. 2015/1862, as amended by S.I. 2016/211, 481, 696, 875 and 1077, 2017/908, 2018/844 and 1114, 2019/1137 and 2020/226, 351 and 911.

(c) Section 9 of the National Health Service Act 2006 (“the Act”) was amended by section 95 of, and paragraph 82 of Schedule 5 to, the Health and Social Care Act 2008 (c.14); paragraph 6 of Schedule 4 to the Health and Social Care Act 2012 (c.7) (“the 2012 Act”); paragraphs 17 and 18 of Schedule 7, paragraphs 1 and 4 of Schedule 14, and paragraph 10 of Schedule 17 to, the 2012 Act; paragraph 9 of Schedule 19 to the 2012 Act; paragraphs 5 and 6 of Schedule 21 to the 2012 Act; and paragraph 16 of Schedule 5 to the Care Act 2014 (c. 23).

(d) S.I. 2015/1879, as amended by S.I. 2016/211, 481, 696, 875 and 1077, 2017/908, 2018/844 and 1114, 2019/1137 and 2020/226, 351 and 911.

(e) S.I. 2015/1879, as amended by S.I. 2016/211, 481, 696, 875 and 1077, 2017/908, 2018/844 and 1114, 2019/1137 and 2020/226, 351 and 911.

(f) Inserted by regulation 28 of S.I. 2019/1137.

(g) Inserted by regulation 18 of S.I. 2019/1137.

- (a) who is recorded by the Board in accordance with direction 17 as being on the APMS contractor's list of patients; or
- (b) whom the APMS contractor has accepted for inclusion in its list of patients, whether or not notification of that acceptance has been received by the Board, and who has not been notified by the Board as having ceased to be on that list; and

"repeatable prescription" has the meaning given in regulation 3 of the PMS Agreements Regulations.

(2) For the purposes of the requirement in these Directions for an APMS contract to include terms which have the effect specified in provisions of the PMS Agreements Regulations, the definitions referred to in paragraph (1) and those terms are to 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";
- (b) "the contractor" or "a contractor" were to "the APMS contractor" or "an APMS contractor"; and
- (c) a particular provision of those Regulations were to a corresponding provision of these Directions where these Directions require an equivalent term to be included in an APMS contract.

**Variation of core hours while a disease is or in anticipation of a disease being imminently pandemic etc.**

**2A.**—(1) In these Directions, where an announcement is made by the Board under paragraph (2), in the circumstances specified in that announcement, and for the period specified in that announcement—

- (a) "core hours" means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday; and
- (b) "out of hours period" means—
  - (i) the period beginning at 6.30pm on any day from Monday to Friday and ending at 8.00am on the following day; and
  - (ii) the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday.

(2) The Board, with the agreement of the Secretary of State, for the purpose set out in paragraph (3), may make an announcement to the effect that the core hours of contractors are to include Good Friday and bank holidays—

- (a) in the area to which the announcement relates,
- (b) in the circumstances specified in the announcement, and
- (c) during the period specified in the announcement.

(3) An announcement may be made under paragraph (2) in order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently—

- (a) pandemic, and
- (b) a serious risk or potentially a serious risk to human health.

**Amendment and withdrawal of announcements and advice in respect of pandemics etc.**

**2B.**—(1) In these Directions, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially a serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time(a).

### Minimum standards

3. Nothing in these Directions prevents the Board from 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

### General conditions

4. The Board may only enter into an APMS contract if the conditions specified in direction 5 are met.

### Provider conditions

- 5.—(1) The Board must not enter into an APMS contract with—
- (a) an individual, where paragraph (2) applies to that individual;
  - (b) a company, where paragraph (2) applies to—
    - (i) the company, or
    - (ii) a director or secretary of the company;
  - (c) two or more persons practising in a partnership, where paragraph (2) applies to—
    - (i) the partnership, or
    - (ii) any person who is a partner in the partnership;
  - (d) an industrial and provident society(b), a co-operative society, a community benefit society(c), a friendly society, a voluntary organisation(d) or any other body where paragraph (2) applies to—
    - (i) the society, organisation or body, or
    - (ii) an officer, trustee or any other person concerned with the management of the society, organisation or body.
- (2) This paragraph applies if—
- (a) the APMS contractor is the subject of a national disqualification;
  - (b) subject to paragraph (3), the APMS contractor is disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by a licensing body anywhere in the world;
  - (c) the APMS contractor has, within the period of five years before the signing of the APMS contract or the commencement of the APMS contract (whichever is the earlier) been dismissed (otherwise than by reason of redundancy) from any employment with a health service body, unless—

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- (a) Directions 2A and 2B reflect amendments made to the GMS and PMS Regulations by regulations 14 and 19, respectively, of S.I. 2020/351.
  - (b) An industrial and provident society is an organisation which was registered under the Industrial and Provident Societies Act 1965 (c. 12), now repealed. Such societies are treated as a registered society under the Co-operative and Community Benefit Societies Act 2014 (c.14).
  - (c) Co-operative societies and community benefit societies are organisations registered under the Co-operative and Community Benefit Societies Act 2014 (c.14).
  - (d) See section 275(1) of the Act for the meaning of “voluntary organisation”.

- (i) if the APMS contractor was employed as a member of a health care profession at the time of the dismissal, the APMS contractor has not subsequently been employed by that health service body or by another health service body, and
  - (ii) the dismissal was the subject of a finding of unfair dismissal by any competent tribunal or court;
- (d) the APMS contractor has, within the period of five years before the signing of the APMS contract or the commencement of the APMS contract (whichever is the earlier), been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning given by section 151(2), (3) and (4) of the Act<sup>(a)</sup> (disqualification of practitioners)), or a performers list held by the Board by virtue of regulations made under section 91(3) (persons performing primary medical services) of the Act, unless the APMS contractor's name has subsequently been included in such a list;
- (e) the APMS contractor has been convicted in the United Kingdom of murder;
- (f) the APMS contractor has been convicted in the United Kingdom of a criminal offence other than murder, committed on or after 1st April 2002, and has been sentenced to a term of imprisonment of longer than six months;
- (g) subject to paragraph (3), the APMS contractor has been convicted outside of the United Kingdom of an offence which would, if committed in England and Wales, constitute murder, and—
- (i) the offence was committed on or after 3rd November 2003, and
  - (ii) the APMS contractor was sentenced to a term of imprisonment of longer than six months;
- (h) the APMS contractor has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933<sup>(b)</sup> (offences against children and young persons, with respect to which special provisions of this Act apply), or in Schedule 1 to the Criminal Procedure (Scotland) Act 1995<sup>(c)</sup> (offences against children under the age of 17 years to which special provisions apply) committed on or after 1st April 2004;
- (i) the APMS contractor has at any time been included in—
- (i) any barred list within the meaning of section 2 of the Safeguarding Vulnerable Groups Act 2006<sup>(d)</sup> (barred lists), or
  - (ii) any barred list within the meaning of article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007<sup>(e)</sup> (barred lists),
- unless the APMS contractor was removed from the list either on the grounds that it was not appropriate for the APMS contractor to have been included in it or as the result of a successful appeal;
- (j) the APMS contractor has, within the period of five years before the signing of the APMS contract or the commencement of the APMS contract (whichever is the earlier), been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission, the Charity Commission for Northern Ireland or the High Court, and that order was made on the grounds of misconduct or mismanagement in the administration of the charity for which the APMS contractor was responsible or to which the APMS contractor was privy, or which was contributed to, or facilitated by, the APMS contractor's conduct;

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(a) Section 151 was amended by paragraph 79 of Schedule 4 to the Health and Social Care Act 2012 (c.7).

(b) 1933 c.12. Schedule 1 was amended by section 51 of, and Schedule 4 to, the Sexual Offences Act 1956 (c.99); paragraph 8 of Schedule 15, and section 170(2) of, and Schedule 16 to, the Criminal Justice Act 1988 (c.33); section 139 of, and paragraph 7 of Schedule 6 to, the Sexual Offences Act 2003 (c.42); section 58(1) of, and Schedule 10 to, the Domestic Violence, Crime and Victims Act 2004 (c.28); paragraph 53 of Schedule 21 to the Coroners and Justice Act 2009 (c.25); section 115(1) of, and paragraph 136(a) and (b) of Schedule 9 to, the Protection of Freedoms Act 2012 (c. 9); and section 7(1) of, and paragraph 1 of Schedule 5 to, the Modern Slavery Act 2015 (c.30).

(c) 1995 c.46. Schedule 1 was amended by paragraph 2(8)(a) of Schedule 5 to the Sexual Offences (Scotland) Act 2009 (asp 9) which inserted paragraphs 1A to 1D into that Schedule.

(d) 2006 c.47. Section 2 was amended by articles 3(a) and 4 of S.I. 2012/3006.

(e) S.I. 2007/1351 (N.I. 11); as amended by section 81(2) and (3)(o)(i) and 116(5)(a) of the Policing and Crime Act 2009 (c.26).

- (k) the APMS contractor has, within the period of five years before the signing of the APMS contract or the commencement of the APMS contract (whichever is the earlier), been removed from being concerned with the management or control of any body in any case where removal was by virtue of section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005(a) (powers of the Court of Session);
- (l) the APMS contractor has—
  - (i) been adjudged bankrupt and has not been discharged from the bankruptcy or the bankruptcy order has not been annulled, or
  - (ii) had sequestration of the APMS contractor’s estate awarded and has not been discharged from the sequestration;
- (m) the APMS contractor is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(b) (bankruptcy restrictions order and undertaking), or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(c) (bankruptcy restrictions order and undertaking), or Part 13 of the Bankruptcy (Scotland) Act 2016(d) (bankruptcy restrictions orders and interim bankruptcy restrictions orders), unless the APMS contractor has been discharged from that order or that order has been annulled;
- (n) the APMS contractor—
  - (i) is subject to a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986(e) (debt relief orders), or
  - (ii) is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act(f) (debt relief restrictions orders and undertakings);
- (o) the APMS contractor has made a composition agreement or arrangement with, or has granted a trust deed for, the APMS contractor’s creditors and the APMS contractor has not been discharged in respect of it;
- (p) the APMS contractor is subject to—
  - (i) a disqualification order or a disqualification undertaking under section 1 of the Company Directors Disqualification Act 1986(g) (disqualification orders: general),
  - (ii) a disqualification order or a disqualification undertaking under article 3 (disqualification orders: general), or article 4 (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002(h), or
  - (iii) a disqualification order under section 429(2) of the Insolvency Act 1986(i) (disabilities on revocation of an administration order against an individual);
- (q) an administrator, administrative receiver or receiver has been appointed in respect of the APMS contractor;
- (r) an administration order has been made in respect of the APMS contractor under Schedule B1 to the Insolvency Act 1986(j) (administration);
- (s) the APMS contractor is a partnership and—

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(a) 2005 asp 10. Section 34 was amended by section 122 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(b) 1986 c.45. Schedule 4A was inserted by Schedule 20 to the Enterprise Act 2002 (c.40) and was amended by section 71(3) of, and paragraph 63(1), (3), (2)(a) and (b) to, the Enterprise and Regulatory Reform Act 2013 (c.24).

(c) S.I. 1989/2405 (N.I. 19). Schedule 2A was inserted by article 13(2) of, and Schedule 5 to, S.I. 2005/1455 (N.I. 10).

(d) 2016 (c.21).

(e) 1986 c.45. Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

(f) Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the Tribunals, Courts and Enforcement Act 2007.

(g) 1986 c.46. Section 1 was amended by sections 5(1) and (2) and 8 of the Insolvency Act 2000 (c.40), section 204(1) and (3) of the Enterprise Act 2002, and sections 111 and 164(1) of, and paragraphs 1 and 2 of Schedule 7 to, the Small Business Enterprise and Employment Act 2015 (c.26).

(h) S.I. 2002/3150 (N.I. 4).

(i) 1986 c.45. Section 429 was amended by section 269 of, and Schedule 23 to, the Enterprise Act 2002, and by section 106 of, and Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007.

(j) 1986 c.45. Schedule B1 was inserted by section 248(2) of, and Schedule 16 to, the Enterprise Act 2002.

- (i) a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or
  - (ii) an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in partnership.
- (3) Paragraph (2)(b) or, as the case may be, paragraph (2)(g), does not apply to a person where—
- (a) that person—
    - (i) has been disqualified or suspended from practising by a licensing body outside of the United Kingdom, or
    - (ii) has been convicted outside of the United Kingdom of a criminal offence; and
  - (b) the Board is satisfied that the disqualification or suspension or, as the case may be, the conviction, does not make the person unsuitable to be—
    - (i) a party to an APMS contract;
    - (ii) in the case of an APMS contract with a company, a director or secretary of a company entering into an APMS contract; or
    - (iii) in the case of an APMS contract with—
      - (aa) an industrial or provident society,
      - (bb) a co-operative society;
      - (cc) a community benefit society;
      - (dd) a friendly society,
      - (ee) a voluntary organisation, or
      - (ff) 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.
- (4) For the purposes of paragraph (2)(c)—
- (a) 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; and
  - (b) a health service body includes a Strategic Health Authority or a Primary Care Trust which was established before the coming into force of section 33 (abolition of Strategic Health Authorities) or 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012(a).
- (5) In this direction, “APMS contractor” includes a person with whom the Board is proposing to enter into an APMS contract.

## PART 3

### MANDATORY TERMS FOR APMS CONTRACTS

#### General terms

- 6.—**(1) The Board must ensure that any APMS contract which it enters into—
- (a) states that it is an NHS contract where the APMS contractor is a health service body or is to be regarded as a health service body by virtue of regulation 9 of the PMS Agreements Regulations, or regulation 10 of the GMS Contracts Regulations (which relate to health service body status);

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(a) 2012 c.7.

- (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 Board;
- (d) subject to direction 7(2)(g), 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 7(2)(o) to (s)) on which the APMS contract may or must be terminated and any contract sanctions imposed; 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**

7.—(1) The Board must ensure that any APMS contract which it enters into contains terms which have the effect specified in the following provisions of the PMS Agreements Regulations (other contractual terms)—

- (a) regulation 24 (variation of agreements), but as if paragraph (2)(c) were omitted;
- (aa) regulation 27A (suspension of agreement terms or of enforcement of agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.)(a);
- (b) regulations 33 to 36 (qualifications of performers), but as if in regulation 33 paragraph (3)(a) were omitted;
- (c) regulation 37(1) and (3) (conditions for employment and engagement: medical practitioners);
- (d) regulation 38(1) and (3) (conditions for employment and engagement: health care professionals);
- (e) regulation 41 (training);
- (f) regulation 42 (arrangements for GP Specialty Registrars);
- (g) regulation 45 (signing of documents);
- (h) regulation 46 (level of skill);
- (i) regulation 60(2) (patient records);
- (j) regulation 65 (confidentiality of personal data: nominated person);
- (k) regulation 67 (provision of information);
- (l) regulation 68 (inquiries about prescriptions and referrals);
- (m) regulation 69 (provision of information to a medical officer etc.);
- (n) regulation 70 (annual return and review), but as if in paragraph (1), the words from “which must require” to the end were omitted;
- (o) regulation 72 (complaints procedure);
- (p) regulation 73 (co-operation with investigations);
- (q) regulation 79 (clinical governance);
- (r) regulation 82 (co-operation with the Secretary of State and Health Education England);
- (s) regulation 83 (insurance);
- (t) regulation 84 (public liability insurance);
- (u) regulation 85 (gifts) but as if—
  - (i) in paragraph (2)—
    - (aa) sub-paragraphs (a) and (b) were omitted, and

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(a) Regulation 27A was inserted by regulation 20 of S.I. 2020/351.



- (bb) in sub-paragraphs (e) and (f), references to “sub-paragraphs (b) to (d)” were to “sub-paragraphs (c) and (d)”, and
- (ii) in paragraph (4), the reference to “paragraph (2)(b) to (f)” were to “paragraph (2)(c) to (f)”;
- (v) regulation 86 (compliance with legislation and guidance);
- (w) regulation 87 (third party rights);
- (x) Part 9 (prescribing and dispensing) (except regulation 49 (orders for drugs, medicines and appliances), but as if—
  - (i) the reference in regulation 54 (restrictions on prescribing by medical practitioners) to regulation 18(2)(b) (fees and charges) were references to direction 10(a)(ii), and
  - (ii) any requirement for a repeatable prescription to include the name of the contractor were omitted.

(2) The Board must also ensure that any APMS contract which it enters into contains terms which have the effect specified in the following provisions of Schedule 2 to the PMS Agreements Regulations (other contractual terms)—

- (a) paragraph 2 (premises);
- (b) paragraph 3 (telephone services);
- (c) paragraph 4 (cost of relevant calls);
- (d) paragraph 7 (clinical reports);
- (e) paragraph 8 (storage of vaccines);
- (f) paragraph 9 (infection control);
- (g) paragraph 43(5) (sub-contracting of clinical matters);
- (h) paragraphs 44A (use of NHS primary care logo), 44B (marketing campaigns) and 44C (advertising private services)(a);
- (i) paragraph 45 (notices to the Board);
- (j) paragraph 47 (notice of deaths);
- (k) paragraph 49 (entry and inspection by the Board);
- (l) paragraph 50 (entry and inspection by the Care Quality Commission);
- (m) paragraph 51 (entry and inspection by Local Healthwatch organisations);
- (n) paragraph 52 (variation of an agreement);
- (o) paragraph 54 (termination on death of the contractor) but as if the reference in sub-paragraph (3) to “paragraphs 57 to 60” were to the terms included in the APMS contract in accordance with sub-paragraphs (p) to (s);
- (p) paragraph 57 (termination by the Board for the provision of untrue etc. information) but as if—
  - (i) for the words from “by the contractor” to “paragraph 46(1)(a) or (b)” there were substituted “by the contractor before the agreement was entered into”, and
  - (ii) the reference to regulation 5 was to direction 6;
- (q) paragraph 58 (other grounds for termination by the Board) but as if sub-paragraphs (1) and (2) were substituted by the following—

“(1) The Board may give notice in writing to the APMS contractor terminating the APMS contract with immediate effect, or from such date as may be specified in the notice, if, during the existence of the contract, sub-paragraph (4) applies to the contractor.

(2) Sub-paragraph (4) applies—

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(a) Paragraphs 44A to C were added to Part 6 of Schedule 2 by regulation 31 of S.I. 2019/1137.

- (a) where a contractor who is an individual is a party to the APMS contract, to that individual;
- (b) where a contractor which is a company is a party to the APMS contract, to—
  - (i) the company, or
  - (ii) any director or secretary of the company;
- (c) where a contractor which is a partnership is a party to the APMS contract, to—
  - (i) any partner in the partnership, or
  - (ii) the partnership; or
- (d) where a contractor which is party to the agreement is an industrial and provident society, a co-operative society, a community benefit society, a friendly society, a voluntary organisation or other body, to—
  - (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.”.
- (r) paragraph 59 (termination by the Board where patients’ safety is at risk or where there is a risk of financial loss to the Board); and
- (s) paragraph 60 (termination by the Board for unlawful sub-contracting).

(3) The Board must consider whether an APMS contract which it enters into should require the APMS 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)(u))—

- (a) the APMS contractor; and
- (b) where the APMS contractor is—
  - (i) a company, any director or secretary of the company;
  - (ii) a partnership, any partner in the partnership; or
  - (iii) an industrial and provident society, a co-operative society, a community benefit 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.

### **Certificates**

**8.**The Board must ensure that any APMS contract which it enters into contains terms which have the effect specified in regulation 15 (certificates) of, and Schedule 1 (list of prescribed medical certificates)(a) to, the PMS Agreements Regulations.

### **Appraisal and assessment of performers of APMS**

**9.**The Board must ensure that any APMS contract which it enters into requires the APMS contractor to ensure that any medical practitioner performing medical services under the APMS contract—

- (a) participates in the appropriate appraisal system; and
- (b) co-operates with the Board in relation to the Board’s patient safety functions.

### **Charges**

**10.**The Board must ensure that any APMS contract which it enters into—

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(a) Schedule 1 was amended by S.I. 2020/267.

- (a) prohibits the APMS contractor, either itself or through any other person, from demanding or accepting from any of its 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) a prescription for any drug, medicine or appliance,
 except in the circumstances set out in regulation 19 of the PMS Agreements Regulations (circumstances in which fees and charges may be made);
- (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) a prescription for any drug, medicine or appliance in connection with that treatment;
- (c) prohibits the APMS contractor, either itself or through any other person, from demanding or accepting from any of its patients a fee or other remuneration, for its own benefit or another's benefit, for the completion, in relation to the patient's mental health, of—
  - (i) a mental health evidence form; or
  - (ii) any examination of the patient or of the patient's medical record in order to complete the form,
 the purpose of which is to assist creditors in deciding which action to take where the debtor has a mental health problem;
- (d) prohibits the APMS contractor, either itself or through any person, from demanding or accepting from a person who is not a patient of the APMS contractor, a fee or other remuneration, for its own benefit or another's benefit, for either of the following services provided on practice premises to which regulation 13(4)(b) of the PMS Agreements Regulations(a) applies, but as if the reference to services specified in regulation 18(2B) of the PMS Agreements Regulations(b) were to the services specified below, unless those services are provided outside of core hours—
  - (i) for treatment consisting of an immunisation for which the APMS contractor receives no remuneration from the Board when provided to its patients and which is requested in connection with travel abroad; or
  - (ii) for prescribing or providing drugs or medicines for malaria chemoprophylaxis;
- (e) contains terms having the same effect as those specified in regulation 18(3) and (4) of the PMS Agreements Regulations (fees and charges);
- (f) 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 and in accordance with the restriction on advertising private services in paragraph 44C of Schedule 2 to the PMS Agreements Regulations(c),
  - (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(1) of the Act(d) (Secretary of State's duty to promote health service), 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

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(a) Inserted by regulation 19 of S.I. 2019/1137.

(b) Inserted by regulation 20 of S.I. 2019/1137.

(c) Inserted by regulation 31 of S.I. 2019/1137.

(d) Section 1 was substituted by section 1 of the Health and Social Care Act 2012 (c.7).

- (cc) how to access that health service.

### **Financial interests**

**11.**—(1) The Board must ensure that any APMS contract which it enters into requires the APMS contractor in making a decision—

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

to make that decision without regard to its own financial interests.

(2) The Board must ensure that any APMS contract which it enters into contains a term which has the effect of prohibiting the APMS contractor from informing patients that any prescription for any drug, medicine or appliance must be dispensed only by the APMS contractor or by a person with whom the APMS contractor is associated.

### **Consequences of termination of an APMS contract**

**12.** The Board must ensure that any APMS contract which it enters into 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**

#### **Patient Participation**

**13.**—(1) An APMS contractor which provides essential services must establish and maintain a group known as a “Patient Participation Group” comprising some of its registered patients for the purposes of—

- (a) obtaining the views of patients who have attended the contractor’s practice about the services delivered by the contractor; and
- (b) enabling the contractor to obtain feedback from its registered patients about those services.

(2) The contractor is not required to establish a Patient Participation Group if such a Group has already been established by the contractor in accordance with the provisions of any directions about enhanced services which were given by the Secretary of State under section 98A of the Act<sup>(a)</sup> (exercise of functions) before 1st April 2015.

(3) The contractor must make reasonable efforts during each financial year to review the membership of its Patient Participation Group in order to ensure that the Group is representative of its registered patients.

(4) The contractor must—

- (a) engage with its Patient Participation Group, at such frequent intervals throughout each financial year as the contractor must agree with that Group, with a view to obtaining feedback from the contractor’s registered patients, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the contractor; and
- (b) review any feedback received about the services delivered by the contractor, whether pursuant to sub-paragraph (a) or otherwise, with its Patient Participation Group with a view to agreeing with that Group the improvements (if any) which are to be made to those services.

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(a) Section 98A was inserted by section 49(1) of the Health and Social Care Act 2012 (c.7).

(5) The contractor must make reasonable efforts to implement such improvements to the services delivered by the contractor as are agreed between the contractor and its Patient Participation Group.

(6) In this paragraph, “financial year” means the 12 month period beginning on 1st April each year and ending on 31st March the following year.

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

**14.—**(1) The Board must ensure that any APMS contract which it enters into under which essential services are to be provided contains terms which, in addition to the requirements specified in directions 6 to 13, have the effect specified in the following provisions of the PMS Agreements Regulations—

- (a) regulation 13(4) (agreements: general) but as if the reference to services specified in regulation 18(2B) of the PMS Agreements Regulations were to the services specified in direction 10(d)(i) and (ii);
- (b) regulation 21 (publication of earnings information);
- (c) regulation 60(1) and (3) to (10) (patient records);
- (d) regulation 61 (Summary Care Record);
- (e) regulation 62 (electronic transfer of patient records between GP practices);
- (f) regulation 63 (clinical correspondence: requirement for NHS number);
- (fa) regulation 63A (use of fax machines)(a);
- (g) regulation 64 (patient online services: appointments and prescriptions)(b);
- (ga) regulation 64ZA (patient online services: provision of online access to coded information in medical record and prospective medical record);
- (gb) regulation 64ZB (patient online services: provision of online access to full digital medical record)(c);
- (gc) regulation 64A (patient access to online services)(d);
- (gd) regulation 66 (requirement to have and maintain an online presence)(e);
- (ge) regulation 66A (requirement to maintain profile page on NHS website)(f);
- (h) regulations 67B to 67H (National Diabetes Audit, information relating to indicators no longer in the Quality and Outcomes Framework, information relating to alcohol related risk reduction and dementia diagnosis and treatment, NHS Digital Workforce Collection, information relating to overseas visitors, Medicines and Healthcare products Regulatory Agency Central Alerting System and collection of data relating to appointments in general practice)(g);
- (i) regulation 80 (Friends and Family Test);
- (j) Schedule 2, paragraph 5 (attendance at practice premises);
- (k) Schedule 2, paragraphs 10 (duty of co-operation) and 10A (duty of co-operation: Primary Care Networks)(h);
- (l) Schedule 2, paragraph 14 (newly registered patients – alcohol dependency screening) and 14A (patients living with frailty);
- (m) Schedule 2, paragraph 15 (accountable GP);

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(a) Regulation 63A was inserted by paragraph 3 of Schedule 2 to S.I. 2020/226.

(b) Regulation 64 was amended by regulation 23 of S.I. 2019/1137.

(c) Regulations 64ZA and 64ZB were inserted by paragraph 4 of Schedule 2 to S.I. 2020/226.

(d) Regulation 64A was inserted by regulation 12 of S.I. 2018/844.

(e) Regulation 66 was amended by paragraph 5 of Schedule 2 to S.I. 2020/226.

(f) Regulation 66A was inserted by paragraph 5 of Schedule 2 to S.I. 2020/226.

(g) Regulation 67C was amended by regulation 25 of S.I. 2019/1137 and regulation 67G was inserted by regulation 26 of S.I. 2019/1137. Regulation 67H was inserted by paragraph 4 of Schedule 2 to S.I. 2020/911.

(h) Paragraph 10A was added by regulation 28 of S.I. 2019/1137.

- (n) Schedule 2, paragraph 16 (patients aged 75 and over: accountable GP), paragraph 16A (NHS e-Referral Service) and paragraph 16B (direct booking by NHS 111 or via a connected service)(a);
- (o) Schedule 2, paragraph 18 (inclusion in list of patients: armed forces personnel) and 18A (inclusion in list of patients: detained persons);
- (p) Schedule 2 paragraph 21 (patient preference of practitioner) and paragraph 24 (removal from the list of patients who are violent);
- (pa) Schedule 2 paragraph 26 (removal from the list of patients who have moved)(b); and
- (q) Schedule 2, paragraph 48 (notices given to patients following variation of the agreement), but as if the words “and Part 8 of this Schedule” were omitted.

(2) The Board must ensure that any APMS contract which it enters into, under which essential services are to be provided, contains a term which has the effect of requiring the APMS contractor—

- (a) to be a member of a CCG; and
- (b) to appoint one individual who is a health care professional to act on the APMS contractor’s behalf in the dealings between the contractor and the CCG to which the APMS contractor belongs.

(3) The Board must ensure that any APMS contract which it enters into under which essential services are to be provided contains a term which has the effect of requiring the APMS contractor—

- (a) to comply with the requirements equivalent to those specified in regulation 71 of, and Part 6 of Schedule 2 to, the PMS Agreements Regulations (which relate to the compilation, review and availability to patients of a practice leaflet); and
- (b) to make available to the Board a copy of the contractor’s practice leaflet.

(4) The Board must ensure that any APMS contract which it enters into under which essential services are to be provided makes provision as to the circumstances in which the Board may assign patients, and—

- (a) in particular, contains a term which has the effect specified in paragraphs 37 and 39A(c) of Part 4 of Schedule 2 to the PMS Agreements Regulations and;
- (b) where appropriate, makes provision as to whether the contractor’s list of patients is to be regarded as open or closed and the circumstances in which the status of the list may change.

(5) The Board must ensure that any APMS contract which it enters into under which essential services are to be provided 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 TERMS FOR AN APMS CONTRACT UNDER WHICH OUT OF HOURS SERVICES ARE TO BE PROVIDED

#### **Mandatory terms for an APMS contract under which out of hours services are to be provided**

**15.—**(1) The Board must ensure that any APMS contract which it enters into under which out of hours services are to be provided, must contain terms which, in addition to the requirements specified in directions 6 to 13, require the APMS contractor—

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(a) Paragraph 16B was amended by regulation 21 of S.I. 2020/351 and paragraph 7 of Schedule 2 to S.I. 2020/911.  
 (b) Paragraph 26 was amended by paragraph 10 of Schedule 2 to S.I. 2020/911.  
 (c) Paragraph 37 was amended and 39A was inserted by regulations 11 and 12 respectively of S.I. 2020/911.

- (a) in the provision of those services, to meet the quality requirements set out in the Integrated Urgent Key Performance Indicators first published on the 25th June 2018 and updated in February 2019(a); and
- (b) to comply with any requests for information which it receives from, or on behalf of, the Board about the provision by the contractor of out of hours services to its registered patients in such manner, and before the end of such period, as is specified in the request.

(2) In this direction “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.

## PART 6

### MANDATORY TERMS REGARDING THE VARIATION OF AN APMS CONTRACT WHERE A CONTRACTOR ACCEPTS REGISTERED PATIENTS FROM OUTSIDE THE PRACTICE AREA

#### **Registered patients from outside practice area: variation of contractual terms**

**16.**—(1) An APMS contractor which provides essential services may accept onto its list of patients a person who resides outside of the contractor’s practice area.

(2) Subject to paragraphs (4) and (5), the terms of the APMS contract specified in paragraph (3) must be varied so as to require the contractor to provide to the person any services which the contractor is required to provide to its registered patients under the contract as if the person resided within the contractor’s practice area.

(3) The terms of the agreement specified in this paragraph are—

- (a) the terms under which the contractor is to provide essential services;
- (b) the terms under which the contractor is required to provide out of hours services to patients to whom it provides essential services; and
- (c) the terms referred to in direction 14(1)(j) (mandatory terms of an APMS contract under which essential services are to be provided: attendance at practice premises).

(4) Where, under paragraph (1)—

- (a) the contractor accepts onto its list of patients a person who resides outside of the contractor’s practice area; and
- (b) the contractor subsequently considers that it is not clinically appropriate or practical to continue to provide that patient with services in accordance with the terms specified in paragraph (3), or to comply with those terms,

the APMS contract must be varied so as to include a term which has the effect of allowing the contractor to remove the patient from the list on the grounds of the patient’s disability or medical condition if the reason for that removal is that the contractor considers that it is not clinically appropriate or practical to continue to provide services under the contract to the patient which do not include the provision of such services at the patient’s home address.

(5) Where the contractor is required to provide services to a patient in accordance with arrangements made under paragraph (1), the APMS contract must also be varied so as to include terms which have the effect of releasing the contractor and the Board from all obligations, rights and liabilities relating to the terms specified in paragraph (3) (including any right to enforce those terms) where, in the opinion of the contractor, it is not clinically appropriate or practical under those arrangements—

- (a) to provide services or access to services in accordance with those terms; or

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(a) The Integrated Urgent Care Key Performance Indicators, first published on 25th June 2018 and updated in February 2019 are available at <https://www.england.nhs.uk/wp-content/uploads/2018/06/integrated-urgent-care-key-performance-indicators-quality-standards-revised-050219.pdf>. Further information or hard copies of this document may be requested from NHS England, Skipton House, 80 London Road, London SE1 6HL.

(b) to comply with those terms.

(6) The APMS contract must also include a term which has the effect of requiring the contractor to notify a person in writing, where the contractor is minded to accept that person on its list of patients, in accordance with arrangements made under paragraph (1), that the contractor is under no obligation to provide—

- (a) essential services, and any other service in core hours, if, at the time the treatment is required, it is not clinically appropriate or practical to provide primary medical services given the particular circumstances of the patient; or
- (b) out of hours services if, at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.

(7) In this direction, “practice area” means the area in which persons resident are, subject to any other terms of the APMS contract relating to patient registration, entitled to—

- (a) register with the APMS contractor; or
- (b) seek acceptance by the APMS contractor as a temporary resident.

## PART 7

### PATIENT LISTS

#### **Patient lists**

**17.—(1)** Where an APMS contract requires an APMS contractor to provide essential services and to have a list of patients—

- (a) the Board must prepare and keep up to date a list of the patients—
  - (i) 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 that contract; and
  - (ii) where applicable, who have been assigned to the APMS contractor’s list of patients in accordance with the terms of the APMS contract and whose assignment to that list has not been rescinded; and
- (b) the APMS contract must include a term to the effect that the contractor agrees, following receipt of a reasonable written request by the Board—
  - (i) to take appropriate steps as soon as is reasonably practicable to correct and update, patient data held on the APMS contractor’s computerised clinical systems, and where necessary register or deregister patients to ensure the patient list is accurate; and
  - (ii) to provide information relating to its list of patients as soon as is reasonably practicable and, in any event, no later than 30 days from the date on which the request was received by the APMS contractor, in order to assist the Board in the exercise of its duties under direction 17(1)(a), contacting patients where reasonably necessary to confirm that their patient data is correct.

## PART 8

### General transitional provision, saving and revocation

#### **General transitional provision, saving and revocation**

**18.—(1)** This direction applies to—

- (a) the exercise by the Board of any of its functions under the 2019 Directions on or before 1st October 2020;



- (b) any rights or liabilities of the Board in respect of the exercise of any of its functions under the 2019 Directions; and
- (c) any rights or liabilities of a Primary Care Trust transferred to the Board as a consequence of a property transfer scheme made under section 300 of the Health and Social Care Act 2012(a) (transfer schemes).

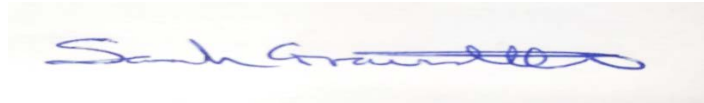
(2) Any act or omission concerning an APMS contract to which the 2019 Directions applied immediately before 1st October 2020 in respect of any of the matters specified in paragraph (1), is to be treated as an act or omission concerning an APMS contract to which these Directions apply.

(3) Anything which, on or before 1st October 2020, is done or is in the process of being done under the 2019 Directions concerning an agreement to which the 2019 Directions applied immediately before that date in respect of any of the matters specified in paragraph (1), is to be treated as if done or in the process of being done under these Directions.

(4) The 2019 Directions are revoked save for the effect of direction 18 of those Directions in respect of rights and liabilities incurred before the date on which the 2019 Directions came into force.

(5) In this direction “the 2019 Directions” means the Alternative Provider Medical Services Directions 2019(b).

Signed by authority of the Secretary of State for Health and Social Care



Date 1<sup>st</sup> October 2020

Member of the Senior Civil Service  
Department of Health and Social Care

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(a) 2012 c.7.

(b) The Alternative Provider Medical Services Directions 2019 were signed on 30<sup>th</sup> September 2019. Hard copies are available from the Department of Health and Social Care, GP Policy Team, 39 Victoria Street, London SW1H 0EU.