

NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

HEALTH BOARD ADDITIONAL PHARMACEUTICAL SERVICES (PUBLIC HEALTH SERVICE) (SCOTLAND) DIRECTIONS 2008

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 1978¹, and all other powers enabling them in that behalf, hereby 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 2008 and shall come into force on 22 August 2008.

2. Interpretation

In these directions, unless the context otherwise requires:

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

“the 1995 Regulations” means the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995²;

“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 1995 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

¹ 1978 c.29; section 2(5) was amended by the Hospital Complaints Procedure Act 1985 (c.42), section 1(1) and 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 28 was inserted by the 1997 Act, section 28(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 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).

² SI 1995/414, amended by SI 1996/840, 1996/1504, 1997/696, 1998/2224, 3031, SSI 1999/57, 2001/70, 2002/111, 153, 2003/296, 2004/39, SI 2004/1771, SSI 2004/212, 2005/327, 618, 2006/143, 245 and 320, 2007/208, SI 2007/289, SSI 2007/300 and 500 and 2008/27.

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

3. Description of the Public Health Service

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

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 1968³, 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 1995 Regulations⁴.

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

5.3. Where the pharmacist referred to at paragraph 5.3 is employed, the pharmacist must not be one:

- (a) who, has been disqualified under section 29B(2) of the Act⁵, or
- (b) who is suspended by direction of the Tribunal, or

³ 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.

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

⁵ Section 29B was inserted by the 1999 Act, section 58, and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), Schedule 2, paragraph 2, and the 2004 Act, Schedule 1, paragraph 1, and partly amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) ("the 2005 Act") section 26 and Schedule 3 in terms of SSI 2006/121.

- (c) who 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, with which the provider of PHS shall be obliged to comply.

7. Payment for the provision of a Public Health Service

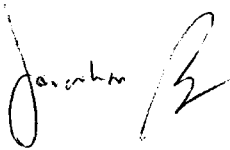
7.1. Remuneration for the provision of PHS will be paid at nationally negotiated rates. From 22 August 2008 payment will be in accordance with Schedule 2.

8. The Health Board Additional Pharmaceutical Services (Public Health Service) (Scotland) Directions 2007

8.1 Subject to paragraph 8.2, these Directions revoke and supersede the Health Board Additional Pharmaceutical Services (Public Health Service) (Scotland) Directions 2007 (“the 2007 Directions”).

8.2 Notwithstanding paragraph 8.1, the 2007 Directions shall continue to apply in respect of any PHS provided during the period from 31 July 2007 until 21 August 2008.

Signed by authority of the Scottish Ministers



Jonathan Pryce

Scottish Executive: A member of the Senior Civil Service

22 August 2008

NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

HEALTH BOARD ADDITIONAL PHARMACEUTICAL SERVICES (PUBLIC HEALTH SERVICE) (SCOTLAND) DIRECTIONS 2008

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 promotion campaign materials and other health education information and support material;
 - (c) participation in health promotion 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. Between these campaigns generic display material will be made available by Scottish Ministers for use by PHS providers if they wish; and
 - (d) where agreed between a PHS provider and the Health Board, participation in locally agreed health promotion campaigns in the intervals between the national campaigns referred to at sub-paragraph (c).
 - (e)
 - (i) the provision of a smoking cessation service comprising advice and supply of nicotine replacement therapy (NRT) and other smoking cessation products over a period of up to 12 weeks, 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), a Chlamydia testing service and a Chlamydia treatment service.
2. The services named at 1(e) are to be provided from 29 August 2008.
3. 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.
4. 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.

5. In providing the PHS service, PHS providers will be required to:
- (a) use material, 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;
 - (d) 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
 - (e) conform with the standards generally accepted by both the NHS and the pharmaceutical profession.

SCHEDULE 2

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 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) displaying the agreed national campaigns, for the set periods; and
 - (c) providing the services named under Schedule 1, Paragraph 1(e).
4. Payments made to providers for providing 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.