

The Scottish Government
Health Workforce Directorate
Employment and Retention Division



Dear Colleague

26 March 2009

AMENDMENT TO THE TERMS AND CONDITIONS OF SERVICE FOR HOSPITAL MEDICAL, DENTAL AND PUBLIC HEALTH MEDICINE CONSULTANTS EMPLOYED UNDER THE 2004 CONSULTANT CONTRACT

CHANGE TO CODE OF CONDUCT FOR PRIVATE PRACTICE: RECOMMENDED STANDARDS OF PRACTICE FOR NHS CONSULTANTS (APPENDIX 8 OF THE CONTRACT)

Summary

1. This Circular notifies employers of a change to the 2004 Consultant Contract (Scotland) Terms and Conditions of Service (TCS) by the removal of a principle previously applied in circumstances where NHS patients wished to pursue private treatment concurrently with their NHS treatment. The principle to be removed is that set out under Paragraph 2.13 (1st bullet) of the Code of Conduct for Private Practice: Recommended Standards of Practice for NHS Consultants (Appendix 8 of the TCS) which states that:

“A patient cannot be both a private and an NHS patient for the treatment of one condition during a single visit to an NHS organisation”.

Context

2. The removal of this principle is required because the Scottish Government has issued new guidance to replace [CMO\(2007\)3](#) and which supersedes the principle in question. This revised guidance provides a framework to support decisions concerning the possible combination of elements of NHS and private care for individual patients. This guidance is available via the following link:

www.scotland.gov.uk/Publications/2009/03/CMO20032009

Addresses

For action

Chief Executives, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Finance, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Human Resources, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)

For information

Members, Scottish Partnership Forum
Members, Scottish Terms and Conditions Committee
Members, Scottish Workforce and Governance Group

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3. BMA (Scotland) and NHS Employers (via the Management Steering Group (MSG)) have agreed the change.

Cabinet Secretary Approval

4. Employers should implement this agreement, which has been approved by Scottish Ministers under Regulation 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 (SI 1991 No 537). A copy of the formal approval is attached.

Amendments to TCS

5. The text of the TCS will be amended to reflect these changes and a revised copy of the TCS will issue in due course.

Action

6. NHS Boards, Special Health Boards and NHS National Services Scotland (formerly the Common Services Agency) are required to note the deletion of the first bullet point of paragraph 2.13 of Appendix 8 of the Terms and Conditions of Service for the 2004 Consultant Contract from the date of this circular.

7. A High Court judgement in 2006 highlighted the need for NHS employers to take all reasonable steps to ensure that the effects of nationally negotiated collective agreements are incorporated into individual contracts of employment.

8. It is good practice that NHS employers should:

- write to individual medical and dental practitioners in order to notify them of the revision to the TCS; and
- place a copy of the notification on each individual's HR record.

Enquiries

9. Employees should direct their personal enquiries to their employing Board, Special Health Board or NHS National Services Scotland (formerly the Common Services Agency).

10. Employers are asked to make their own arrangements for obtaining any additional copies of this circular which is available on the SHOW website at www.show.scot.nhs.uk/sehd/publications.asp

Yours sincerely

JACQUI JONES

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Employment and Retention

DIRECTION

Scottish Ministers, in exercise of the powers conferred on them by Section 105(7) of, and paragraph 5 of Schedule 1 and paragraph 7 of Schedule 5 to, the National Health Service (Scotland) Act 1978, hereby give to NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency) the following Direction.

The terms and conditions of service for hospital medical and dental staff and doctors in public health and the community health service (consultant grade) introduced under NHS Circular PCS(DD)2004/2 dated 30 March 2004 are amended by the changes to the terms and conditions which were approved by Scottish Ministers on 26 March 2009 in NHS Circular PCS(DD)2009/1 with effect from 26 March 2009.

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26 March 2009

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**NATIONAL HEALTH SERVICE
APPROVAL OF REMUNERATION AND CONDITIONS OF SERVICE**

Scottish Ministers, in exercise of the powers conferred on them by Regulations 2 and 3 of the National Health Service (Remuneration and Conditions of Service) (Scotland) Regulations 1991 hereby approve the amendment to paragraph 2.13 of Appendix 8 – Code of Conduct for Private Practice – of the Terms and Conditions of Service for Hospital Medical and Dental Staff and Doctors in Public Health and the Community Health Service (consultant grade) as set out in NHS Circular PCS(DD)2009/1 dated 26 March 2009.

This approval has effect from 26 March 2009.

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25 March 2009