



Jersey

## HEALTH INSURANCE (PERFORMERS LIST FOR GENERAL MEDICAL PRACTITIONERS) (JERSEY) REGULATIONS 2014

### Arrangement

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*Made*  
*Coming into force*

*9th July 2014*  
*1st October 2014*

**THE STATES**, in pursuance of Article 27A of the Health Insurance (Jersey) Law 1967<sup>1</sup>, and following consultation by the Minister for Health and Social Services in accordance with paragraph (13) of that Article, have made the following Regulations –

### PART 1

#### INTERPRETATION

#### 1 Interpretation

- (1) In these Regulations –
- “1960 Law” means the Medical Practitioners (Registration) (Jersey) Law 1960<sup>2</sup>;
  - “1967 Law” means the Health Insurance (Jersey) Law 1967<sup>3</sup>;
  - “additional conditions”, in relation to a performer, means conditions, other than the general conditions, imposed under these Regulations on the performer’s inclusion or continued inclusion in the performers list;
  - “applicant” means an applicant for inclusion in the performers list;
  - “concern” has the meaning given in Regulation 12;
  - “determining officer” shall be construed in accordance with Regulation 2;
  - “enhanced criminal record certificate” means such a certificate issued under section 113B of the Police Act 1997 of the United Kingdom as extended to Jersey, with modifications, by The Police Act 1997 (Criminal Records) (Jersey) Order 2010<sup>4</sup>;
  - “equivalent list” means a list of medical practitioners maintained pursuant to regulations made under –

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- (a) section 91 of the National Health Service Act 2006 of the United Kingdom;
  - (b) section 17P of the National Health Service (Scotland) Act 1978;
  - (c) section 49 of the National Health Service (Wales) Act 2006; or
  - (d) article 57G of the Health and Personal Social Services (Northern Ireland) Order 1972;

“general conditions” means the conditions in Schedule 2;

“General Council” means the General Medical Council continued, as a body corporate, by section 1 of the Medical Act 1983;

“General Practitioner Register” means the register of that name kept under section 34C of the Medical Act 1983;

“inspector” means an inspector authorized by the Minister for Health and Social Services under Article 30(5)(a)(i) of the 1967 Law;

“licence to practise” means a licence granted to a medical practitioner under and in accordance with Part IIIA of the Medical Act 1983;

“Medical Act 1983” means that Act of the United Kingdom;

“Medical Director” shall be construed in accordance with Regulation 2;

“national disqualification” means national disqualification imposed pursuant to section 159 of the National Health Service Act 2006 of the United Kingdom;

“performer” means a person included in the performers list;

“performers list” shall be construed in accordance with Regulation 3;

“Performers List Appeals Panel” shall be construed in accordance with Regulation 39;

“Primary Care Governance Team” shall be construed in accordance with Regulation 2;

“professional conduct” includes matters relating to both professional conduct and professional performance;

“registered medical practitioner” means a person registered under the 1960 Law;

“substantive issue” shall be construed in accordance with Regulation 13(2);

“UK practitioners register” means the register of medical practitioners kept under section 2 of the Medical Act 1983.

- (2) In these Regulations, a reference to temporary inclusion in the performers list means inclusion in the performers list on the terms specified in Regulation 11.
- (3) In these Regulations, a reference to a person’s fitness to practise shall be construed in accordance with section 35C(2) of the Medical Act 1983.

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## PART 2

### ESTABLISHMENT OF AND INCLUSION IN PERFORMERS LIST

#### 2 Primary Care Governance Team

- (1) The Primary Care Governance Team comprises –
  - (a) the Medical Director; and
  - (b) one or more determining officers.
- (2) The responsible officer appointed in relation to performers pursuant to an Order made under Article 10C(3)(b) of the 1960 Law shall also be the Medical Director.
- (3) The Minister for Health and Social Services shall appoint a sufficient number of persons having the appropriate qualifications and experience as determining officers –
  - (a) to discharge, under the direction of the Medical Director, the functions of determining officers under these Regulations; and
  - (b) generally to assist the Medical Director in the discharge of his or her functions under these Regulations and, as a responsible officer, under any Order made under Article 10C of the 1960 Law.

#### 3 Performers list

- (1) There shall be a performers list.
- (2) The performers list shall be maintained and governed by the Medical Director.
- (3) The performers list shall contain the following information in respect of each performer included in it –
  - (a) the performer's full name;
  - (b) the registration number assigned to the performer in respect of his or her registration in the UK practitioners register;
  - (c) the date of the performer's registration as a registered medical practitioner under the 1960 Law; and
  - (d) the performer's medical qualifications.
- (4) The Medical Director shall –
  - (a) make the performers list available for inspection by the public; and
  - (b) publish the performers list.

#### 4 Eligibility for inclusion in performers list

In order to be eligible to be included in the performers list a person –

- (a) must be a registered medical practitioner;
- (b) must be included in the General Practitioner Register;

- (c) must not be subject to a national disqualification for inclusion in an equivalent list; and
- (d) must be providing medical services in Jersey or intending to do so within the next 12 months.

## **5 Application for inclusion in performers list**

- (1) An application for inclusion in the performers list shall be made to the Primary Care Governance Team.
- (2) An application shall be made in writing, using the form and containing the declaration required by Schedule 1.
- (3) An application shall contain the information and be accompanied by the documents required by Schedule 1.
- (4) An application shall be determined by a determining officer.
- (5) A determining officer may, for the purposes of determining an application, request an applicant to provide such information or documents that the officer reasonably requires, in addition to the material provided as required by Schedule 1.
- (6) An application need not be determined before the material required by Schedule 1 and any additional information or documents required under paragraph (5) have been provided by the applicant.

## **6 Mandatory grounds for refusal of application**

A determining officer shall refuse an application for inclusion in the performers list if –

- (a) the applicant is not a registered medical practitioner;
- (b) the applicant is not included in the General Practitioner Register;
- (c) the applicant is subject to a national disqualification for inclusion in an equivalent list;
- (d) the applicant has been convicted, in the British Islands, of murder;
- (e) in a case where the applicant's application was deferred under Regulation 8, the applicant has not updated his or her application; or
- (f) in a case where additional conditions are to be imposed upon the applicant's inclusion in the performers list, the applicant has not given notice that he or she wishes to be included in the list subject to those conditions.

## **7 Discretionary grounds for refusal of application**

- (1) A determining officer may, with the concurrence of the Medical Director, refuse an application for inclusion in the performers list if –
  - (a) the determining officer considers the applicant is unsuitable for inclusion in the list, having considered the information and



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- documentation provided by the applicant, as required by Schedule 1;
- (b) having obtained references from the referees named by the applicant in his or her application, the determining officer is not satisfied with those references;
  - (c) having checked with the Minister for Social Security and with any other relevant authority in the British Islands for any facts that the determining officer considers relevant relating to any past or current fraud investigation involving or relating to the applicant, and having considered these and any other facts in his or her possession relating to the applicant, the determining officer considers that the applicant is unsuitable to be included in the performers list; or
  - (d) the determining officer considers that there are reasonable grounds for concluding that the inclusion of the applicant in the performers list would be prejudicial to the efficiency of medical services for which medical benefit is payable.
- (2) A determining officer may, with the concurrence of the Medical Director, refuse an application for inclusion in the performers list if –
- (a) the applicant has not provided satisfactory evidence that he or she will be performing medical services in Jersey, within the next 12 months; or
  - (b) the determining officer is not satisfied that the applicant has sufficient knowledge of the English language necessary to perform medical services in Jersey.
- (3) A determining officer may, with the concurrence of the Medical Director, refuse an application for inclusion in the performers list if –
- (a) the applicant's registration in the UK practitioners register is subject to conditions imposed by an interim order made under section 41A of the Medical Act 1983;
  - (b) the applicant's registration in the UK practitioners register is subject to conditions by virtue of a direction given under section 35D of the Medical Act 1983; or
  - (c) the applicant's registration in the UK practitioners register is subject to conditions by virtue of a direction given pursuant to rules made under paragraph 5A(3) of Schedule 4 to the Medical Act 1983.
- (4) Where a determining officer and the Medical Director are considering a refusal of an application on a ground in paragraph (1) they must, in particular, take into consideration –
- (a) the nature of any matter in question;
  - (b) the length of time since that matter and the events giving rise to it occurred;
  - (c) any action or penalty imposed by any regulatory or other body as a result of the matter;
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- (d) the relevance of that matter to the applicant's performance of medical services for which medical benefit is payable and any likely risk to the applicant's patients or to the Health Insurance Fund or public finances;
- (e) whether any offence was a sexual offence to which the Sex Offenders (Jersey) Law 2010<sup>5</sup> applies by virtue of Article 2 of that Law or, if it had been committed in Jersey, would have been such an offence; and
- (f) whether, in respect of the performers list or any equivalent list, the applicant –
  - (i) has been refused inclusion in the list,
  - (ii) has been included in the list subject to, in the case of the performers list, additional conditions or, in the case of an equivalent list, any conditions,
  - (iii) has been removed from the list, or
  - (iv) is currently suspended from the list,and, if so, the facts relating to the matter which led to such action, together with the reasons given for the action by the holder of the list.

## **8 Deferral of decision whether to include applicant in performers list**

- (1) A determining officer may defer a decision on an application where –
  - (a) there are in respect of the applicant –
    - (i) criminal proceedings in the British islands, or
    - (ii) proceedings elsewhere in the world in respect of acts or omissions which, if they had occurred in Jersey, would constitute a criminal offence,and which, if such proceedings resulted in a conviction, or the equivalent of a conviction would, if the applicant were at that time included in the performers list, lead, or be likely, to lead to his or her removal from the list;
  - (b) there is any investigation, anywhere in the world, by any regulatory or other body relating to the applicant which, if the outcome of the investigation was adverse to the applicant, would, if the applicant were at that time included in the performers list lead, or be likely to lead, to his or her removal from the list;
  - (c) the applicant is suspended from an equivalent list;
  - (d) the applicant has appealed against a decision –
    - (i) to refuse to include the applicant in an equivalent list,
    - (ii) to include the applicant in an equivalent list subject to conditions, or
    - (iii) to remove the applicant from an equivalent list,and, if the appeal against the decision was unsuccessful, the decision, if the applicant were at that time included in the

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performers list, would, or would be likely, to lead to his or her removal from the list.

- (2) A decision may only be deferred under paragraph (1) until whichever is the later of the outcome of the matter in question or, if there is more than one, the last of them, is known.
- (3) Once the outcome of the matter in question or, if there is more than one, the last of them, is known, the determining officer must notify the applicant that the applicant must, within 28 days of the notification –
  - (a) confirm, in writing, whether the applicant wishes to proceed with the application; and
  - (b) if the applicant wishes to proceed, provide any additional information required by the determining officer.
- (4) If an applicant, in accordance with paragraph (3), confirms his or her wish to proceed and provides the additional information required, the application must be determined in accordance with Regulations 6, 7 and 10.

## **9 General conditions applicable to all performers**

Every performer must comply with the conditions in Schedule 2.

## **10 Additional conditions applicable to performer**

- (1) The Medical Director may specify that a person's inclusion, or continued inclusion, in the performers list is subject to conditions in addition to those imposed by Regulation 9.
- (2) Conditions may be imposed –
  - (a) for the purpose of protecting patients;
  - (b) for the purpose of preserving the Health Insurance Fund or public finances;
  - (c) for the purpose of preventing any prejudice to the efficiency of the provision of medical services pursuant to a contract under Part 3A of the 1967 Law or for which medical benefit is payable; or
  - (d) for the purpose of preventing fraud.
- (3) Conditions may be expressed to apply indefinitely or until any action required by the condition, such as training, retraining, rehabilitation or experience in practice, is completed.
- (4) A performer must comply with any additional conditions imposed in his or her case.

## **11 Duration of temporary inclusion in performers list**

Where a person applies for and is given temporary inclusion in the performers list, the person's inclusion shall expire –

- (a) at the end of the period of 4 weeks; or

- (b) if, within that period, the person has applied for full inclusion in the list but, notwithstanding that the person has supplied all the information, and all the documents, required by Schedule 1, the person's application has not been determined before the end of that period – upon the person's application for full inclusion in the list being refused.

### **PART 3**

#### **CONCERNS**

#### **12 Concerns**

A concern is any concern, allegation or complaint regarding a performer –

- (a) that has been raised by any person; and
- (b) if it has not been raised by a determining officer or the Medical Director, has been notified to the Primary Care Governance Team.

#### **13 Preliminary assessment of concern by Medical Director**

- (1) A concern shall be referred to the Medical Director.
- (2) The Medical Director shall assess whether the concern raises, or may raise, a substantive issue, being an issue –
  - (a) regarding the performer's eligibility or suitability for inclusion in the performers list;
  - (b) regarding the performer's compliance with the general conditions and any additional conditions;
  - (c) that must be referred to the Minister for Social Security in accordance with Regulation 19(1); or
  - (d) regarding the performer's fitness to practise.

#### **14 Decision that concern does not raise a substantive issue**

If the Medical Director decides that a concern does not raise a substantive issue, the Medical Director shall inform the person who raised the concern of his or her decision, and may inform the performer of his or her decision.

#### **15 Informal resolution of concern that does not raise a substantive issue**

The Medical Director may, with the agreement of the person who raised the concern and the performer, seek to resolve informally a concern that the Medical Director has decided does not raise a substantive issue.

#### **16 Notification of concern that raises, or may raise, a substantive issue**

The Medical Director shall notify the performer, within 7 days, of his or her assessment that a concern raises, or may raise, a substantive issue in relation to the performer.

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**17 Investigation of concern**

- (1) In the case of a concern that raises, or may raise, a substantive issue, the Medical Director shall, subject to Regulation 19 –
  - (a) refer the concern to an inspector; and
  - (b) notify the performer within 7 days of such referral being made.
- (2) The inspector shall –
  - (a) investigate the facts to which the concern relates; and
  - (b) report his or her findings, and pass any documents or copies obtained under paragraph (3), to the Medical Director.
- (3) An inspector may, for the purposes of an investigation, require the production or the provision of copies of documents that include personal data, including sensitive personal data, where the conditions under the Data Protection (Jersey) Law 2005<sup>6</sup> for processing of the data are satisfied.

**18 Decision by Medical Director in respect of concern**

- (1) The Medical Director, upon receiving an inspector's report regarding a concern, shall decide whether the concern has raised a substantive issue.
- (2) If the Medical Director finds that the concern has not raised a substantive issue he or she –
  - (a) shall inform the performer within 7 days of his or her decision; and
  - (b) may either take no further action in respect of the concern or seek to resolve it informally, under Regulation 15.
- (3) If the Medical Director finds that any of the discretionary grounds for removal from the performers list apply, but that the case is not so serious that there is any risk that the performer's fitness to practise is impaired, the Medical Director may serve a resolution notice on the performer, in accordance with Regulation 20.
- (4) Otherwise, if the Medical Director finds that any of the grounds for removal from the performers list apply or for the imposition or variation of additional conditions, the Medical Director shall make any decision in respect of the concern in accordance with Part 4.

**19 Referral of concern to Minister for Social Security or General Council**

- (1) If, at any time, it appears to the Medical Director that a concern raises, or may raise, an issue that should be presented to the Minister for Social Security for the purposes of Article 27(1) of the 1967 Law, the Medical Director shall refer the issue to the Minister for Social Security.
- (2) If, at any time, it appears to the Medical Director that a concern raises an issue regarding a performer's fitness to practise that it is appropriate to refer to the General Council the Medical Director shall, as the performer's responsible officer, refer the issue to the General Council.

- (3) The Medical Director shall notify the performer of a referral under this Regulation within 7 days of the referral being made.

## **20 Resolution notices**

- (1) A resolution notice served by the Medical Director on a performer in the circumstances described in Regulation 18(3) must set out actions, changes and any other steps to be undertaken by the performer, and the time or times by which they must be undertaken.
- (2) The resolution notice may also set out actions and steps initiated by the Medical Director, for example, the arrangement by the Medical Director for the performer's clinical practice to be assessed by a person or body competent to undertake such assessments.
- (3) The actions, changes and other steps are those required to address the issues raised by the concern and any other issues identified in the course of the investigation conducted under Regulation 17.
- (4) The performer must notify the Medical Director of the performer's acceptance or rejection of the resolution notice no later than 14 days after it is served.
- (5) A performer who does not give notice in accordance with paragraph (4) shall be taken to have rejected the resolution notice.
- (6) If the performer accepts the resolution notice and completes the actions, changes and other steps set out in that notice within the time specified, the concern shall be taken to have been resolved.
- (7) If –
- (a) the performer accepts the resolution notice but does not complete the actions, changes and other steps to be undertaken by him or her within the time specified; or
  - (b) the performer rejects the resolution notice,
- the concern shall not be taken to have been resolved and the Medical Director shall make any decision in respect of the concern in accordance with Part 4.

## **PART 4**

### **FAILURE TO COMPLY WITH CONDITIONS, SUSPENSION AND REMOVAL FROM PERFORMERS LIST**

## **21 Failure to comply with conditions**

If the Medical Director determines that a performer has failed to comply with the general conditions or with additional conditions, the Medical Director may decide –

- (a) in a case of non-compliance with additional conditions, to vary all or any of those conditions;
  - (b) in any case –
-

- 
- (i) to impose additional conditions, or
  - (ii) in accordance with the following provisions of this Part, to remove the performer from the performers list.

**22 Mandatory suspension from performers list**

- (1) A performer's inclusion in the performers list is suspended at any time when his or her registration as a registered medical practitioner is suspended.
- (2) A determining officer must, as soon as possible, notify the performer, in writing, of his or her suspension under paragraph (1) and of the effect of paragraph (3).
- (3) A suspension under paragraph (1) ends when the performer's registration as a registered medical practitioner ceases to be suspended.

**23 Discretionary suspension from performers list**

If the Medical Director is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, he or she may decide to suspend a performer from the performers list –

- (a) whilst the Medical Director decides whether or not to exercise his or her powers under this Part to remove the performer from the performers list;
- (b) whilst the Medical Director awaits –
  - (i) the outcome of any criminal or regulatory investigation affecting the performer, or
  - (ii) a decision of a court or regulatory body, anywhere in the world, affecting the performer;
- (c) where the Medical Director has decided to remove the performer from the performers list, but before that decision takes effect; or
- (d) pending an appeal under these Regulations.

**24 Process for suspension under Regulation 23**

- (1) Where the Medical Director is considering suspending a performer under Regulation 23, the Medical Director must give the performer –
  - (a) notice of any concern regarding the performer that the Medical Director is taking into consideration;
  - (b) notice of what action the Medical Director is considering, and on what grounds; and
  - (c) the opportunity for the performer to put his or her case in writing to the Medical Director, by a specified time on a specified day.
- (2) The day specified for the purposes of paragraph (1)(c) must be at least 2 working days after the day on which the notice is given.

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- (3) If the performer does not wish to put his or her case in writing to the Medical Director, or does not do so by the time specified, the Medical Director may suspend the performer with immediate effect.
  - (4) If the performer puts his or her case in writing to the Medical Director, the Medical Director –
    - (a) must, when making a decision, take into account the performer's representations; and
    - (b) may decide –
      - (i) to suspend the performer with immediate effect, or
      - (ii) to allow the performer to resume as a performer, subject to additional conditions.

## **25 Immediate suspension under Regulation 23**

- (1) Notwithstanding Regulation 24, where the Medical Director considers it necessary to do so for the protection of patients or members of the public, or that it is otherwise in the public interest, the Medical Director may decide that a suspension under Regulation 23 is to have immediate effect without undertaking the steps described in Regulation 24.
- (2) If the Medical Director, pursuant to paragraph (1), decides to suspend a performer with immediate effect, the Medical Director must –
  - (a) review the decision, in accordance with paragraph (7), within the period of 2 working days commencing with the day the suspension commenced; and
  - (b) as soon as is reasonably practicable, give the performer –
    - (i) notice of what further action the Medical Director is considering and on what grounds, and
    - (ii) the opportunity to put the performer's case in writing to the Medical Director by a specified time on a specified day.
- (3) The day specified for the purposes of paragraph (2)(b)(ii) must be at least 2 working days after the day the performer is given notice of the suspension.
- (4) If the Medical Director fails to review the decision as required by paragraph (2)(a), the suspension shall end upon the expiry of the period mentioned in that sub-paragraph.
- (5) If a performer does not wish to put his or her case in writing to the Medical Director, as described in paragraph (2)(b)(ii), or does not do so by the time specified, the Medical Director may confirm or revoke the suspension.
- (6) If the performer puts his or her case in writing to the Medical Director, the Medical Director must –
  - (a) take into account the representations made by the performer, in accordance with paragraph (7), when making a decision; and
  - (b) may decide –
    - (i) to confirm or revoke the suspension, and



- 
- (ii) if he or she decides to revoke the decision, to impose additional conditions in respect of the performer.
  - (7) The Medical Director must, in the course of reviewing a decision under paragraph (2)(a) or taking into account a performer's representations under paragraph (6)(a), consult with a panel referred to in paragraph (8).
  - (8) The Minister for Health and Social Services shall, for the purposes of paragraph (7), appoint a panel, or arrange for the provision of the services of a panel, the members of which have the qualifications, experience and knowledge to advise on the suspension of performers.

## **26 Duration and revocation of suspension under Regulation 23**

- (1) In the case of suspension on the ground in Regulation 23(a) or (b), (including any such suspension that is confirmed under Regulation 25(6)(b)(i)), the Medical Director must specify an initial period of suspension of not more than 3 months.
- (2) In the case of a suspension whilst the Medical Director awaits the outcome of any criminal or regulatory investigation affecting the performer, the Medical Director may decide that the performer shall remain suspended for an additional period, provided that the aggregate of the initial period of suspension and the additional period of suspension is not more than 6 months.
- (3) In the case of a suspension whilst the Medical Director awaits a decision of a court or regulatory body anywhere in the world affecting the performer, after that decision is made, the Medical Director may decide that the performer shall remain suspended for an additional period, provided that the aggregate of the initial period of suspension and the additional period is not more than 6 months.
- (4) The Medical Director may decide to extend an initial period of suspension or an additional period of suspension, provided that the aggregate period of suspension decided by the Medical Director does not exceed 6 months.
- (5) The Medical Director may apply to the Performers List Appeals Panel for an extension of a period of suspension.
- (6) An application under paragraph (5) must be made before the expiry of the period of suspension.
- (7) A sub-panel of the Performers List Appeals Panel convened to hear an application made under paragraph (5) may –
  - (a) order that a period of suspension is extended so that the aggregate period of suspension of a performer is more than 6 months; and
  - (b) make a further order at any time while a period of suspension continues pursuant to an earlier order of the Panel.
- (8) An order of a sub-panel under paragraph (7) must specify –
  - (a) a date on which the period of suspension is to end;

- (b) an event beyond which the period of suspension is not to continue; or
  - (c) that the period of suspension is to end on whichever is the earlier of a specified date or event.
- (9) If an application under paragraph (5) is made in accordance with paragraph (6), but the sub-panel has not made its decision by the time that the period of suspension would, apart from this paragraph, expire, the period of suspension shall continue until the sub-panel makes its decision.
- (10) A suspension under Regulation 23(a) continues in force after the Medical Director has decided to remove the performer from the performers list until the decision takes effect.
- (11) A suspension under Regulation 23(d) continues in force until the appeal is concluded.
- (12) The Medical Director may, at any time, revoke a suspension, if the Medical Director is in possession of evidence that revoking the suspension will not compromise the protection of patients or members of the public, or the public interest.

#### **27 Effect of suspension from performers list**

A performer who is suspended from the performers list shall be treated as not included in that list, even though his or her name appears in it.

#### **28 Application by performer to be removed from performers list**

- (1) A performer may apply to be removed from the performers list.
- (2) The application must be made in writing to the Primary Care Governance Team.
- (3) A determining officer shall refuse to accept the application if, at the time it is made, the performer is subject to any investigation or procedure under Part 3 or this Part or by the General Council, or is suspended from the performers list or any equivalent list.
- (4) If the application is accepted by a determining officer, the performer may be removed from the performers list in accordance with Regulation 30(7).

#### **29 Mandatory grounds for removal from performers list**

- (1) The Medical Director must decide to remove a performer from the performers list if –
  - (a) the performer ceases to be a registered medical practitioner;
  - (b) the performer ceases to be included in the General Practitioner Register;
  - (c) the performer is subject to a national disqualification from any equivalent list;
  - (d) the performer is convicted, in the British Islands, of murder; or
  - (e) the performer has died.

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- (2) The Medical Director must decide to remove a performer from the performers list when directed to do so by a sub-panel of the Performers List Appeals Panel under Regulation 40 or 41 or the Royal Court under Regulation 42.

**30 Discretionary grounds for removal from performers list**

- (1) The Medical Director may decide to remove a performer from the performers list if –
- (a) the performer has been convicted, in the British Islands, of an offence (other than murder), and has been sentenced to a term of imprisonment, whether suspended or not, of more than 6 months;
  - (b) the performer does not comply with a general condition;
  - (c) the performer does not comply with any additional conditional applicable in his or her case; or
  - (d) the performer does not, within the time specified, complete the actions, changes and other steps specified in a resolution notice that the performer has accepted.
- (2) The Medical Director may remove a performer from the performers list if the continued inclusion of the performer in the list would be prejudicial to the efficiency of the provision of medical services pursuant to a contract made under Part 3A of the 1967 Law or for which medical benefit is paid (an “efficiency case”).
- (3) The Medical Director may remove a performer from the performers list if the performer –
- (a) has, whether alone or together with another person, by act or omission, caused or risked causing detriment to the scheme of health insurance under the Health Insurance (Jersey) Law 1967<sup>7</sup> or to any other publicly funded health scheme elsewhere by securing or attempting to secure for the performer or another person any financial or other benefit; and
  - (b) knew that the performer or the other person (if any) was not entitled to the benefit (a “fraud case”).
- (4) The Medical Director may remove a performer from the performers list if the performer is unsuitable to be included in the list (an “unsuitability case”).
- (5) The Medical Director may remove a performer from the performers list if the performer cannot demonstrate that he or she has provided medical services in Jersey –
- (a) during the preceding 12 months; or
  - (b) if the performer has been included in the performers list for less than 12 months, during the period commencing with his or her inclusion in the list.
- (6) In calculating the period referred to in paragraph (5)(a) or (b) there shall be disregarded –

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- (a) any period during which the performer was suspended under these Regulations;
  - (b) any period during which the performer's registration as a registered medical practitioner was suspended; or
  - (c) any period which the Medical Director, with good cause, decides.
- (7) The Medical Director may remove a performer from the performers list 3 months after the performer's application for removal has been accepted under Regulation 28.

**31 Criteria for removal from performers list under Regulation 30(2) – efficiency case**

- (1) Where the Medical Director is considering whether to remove a performer from the performers list under Regulation 30(2), the Medical Director must consider –
- (a) any information relating to the performer notified by the performer in compliance with the general conditions and any additional conditions applicable in the performer's case;
  - (b) any information provided by the National Health Service Litigation Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom about past or current investigations or proceedings involving or relating to that performer; and
  - (c) the matters referred to in paragraph (2).
- (2) The matters are –
- (a) the nature of any incident which was prejudicial to the efficiency of the provision of medical services pursuant to a contract made under Part 3A of the 1967 Law or for which medical benefit is payable;
  - (b) the length of time since the last incident occurred and since any investigation into it was concluded;
  - (c) any action taken by the Minister for Health and Social Services under the 1960 Law or by any regulatory or other body, including the police or courts, as a result of any such incident;
  - (d) the relevance of the incident to the performer's performance of medical services pursuant to a contract made under Part 3A of the 1967 Law or for which medical benefit is payable, and the likely risk to patients or to public finances;
  - (e) whether the performer has ever failed to comply with a request to undertake an assessment by –
    - (i) the National Clinical Assessment Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom on or before 31st March 2005,
    - (ii) the National Patient Safety Agency established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom on or before 31st

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March 2005, between 1st April 2005 and 31st March 2012 inclusive,

- (iii) the National Institute for Health and Clinical Excellence established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom between 1st April 2012 and 31st March 2013 inclusive, or
- (iv) the National Health Service Litigation Authority mentioned in paragraph (1)(b), on or after 1st April 2013;
- (f) whether the performer has previously failed to supply information, make a declaration required or comply with general or additional conditions imposed on his or her inclusion in the performers list or an equivalent list; and
- (g) whether, in respect of the performers list or an equivalent list, the performer –
  - (i) was refused inclusion in it,
  - (ii) was included in it subject to conditions,
  - (iii) was removed from it, or
  - (iv) is currently suspended from it,

and, if so, the facts relating to the incident which led to such action and the reasons given for such action by the holder of the list.

### **32 Criteria for removal from performers list under Regulation 30(3) – fraud case**

- (1) Where the Medical Director is considering whether to remove a performer from the performers list under Regulation 30(3), the Medical Director must consider –
  - (a) any information relating to the performer notified by the performer in compliance with the general conditions and any additional conditions applicable in the performer’s case;
  - (b) any information provided by the National Health Service Litigation Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom about past or current investigations or proceedings involving or relating to that performer;
  - (c) any information provided by the NHS Business Services Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom about past or current investigations or proceedings involving or relating to the performer; and
  - (d) the matters set out in paragraph (2).
- (2) The matters are –
  - (a) the nature of any incident of fraud;

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- (b) the length of time since the last incident of fraud occurred, and since any investigation into it was concluded;
  - (c) any action taken by the Minister for Social Security under the 1967 Law, by the Minister for Health and Social Services under the 1960 Law or by any regulatory or other body, including the police or the courts, as a result of the incident;
  - (d) the relevance of any investigation into any incident of fraud to the performer's performance of medical services pursuant to a contract made under Part 3A of the 1967 Law or for which medical benefit is payable, and the likely risk to patients or to the Health Insurance Fund or public finances; and
  - (e) whether, in respect of the performers list or an equivalent list, the performer –
    - (i) was refused inclusion in it,
    - (ii) was included in it subject to conditions,
    - (iii) was removed from it, or
    - (iv) is currently suspended from it,and, if so, the facts relating to the incident which led to such action and the reasons given for such action by the holder of the list.

### **33 Criteria for removal from performers list under Regulation 30(4) – unsuitability case**

- (1) Where the Medical Director is considering whether to remove a performer from the performers list under Regulation 30(4), the Medical Director must consider –
  - (a) any information relating to the performer notified by the performer in compliance with the general conditions and any additional conditions applicable in the performer's case;
  - (b) any information provided by the National Health Service Litigation Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006 of the United Kingdom about past or current investigations or proceedings involving or relating to that performer; and
  - (c) the matters set out in paragraph (2).
- (2) The matters are –
  - (a) the nature of any event which gives rise to a question as to the suitability of the performer to be included in the performers list;
  - (b) the length of time since the event and the facts which gave rise to it occurred;
  - (c) any action taken or penalty imposed by the Minister for Health and Social Services under the 1960 Law or by any regulatory or other body, including the police or the courts, as a result of the event;
  - (d) the relevance of the event to the performer's performance of medical services pursuant to a contract made under Part 3A of the 1967 Law or for which medical benefit is payable and any likely

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risk to any patients or to the Health Insurance Fund or public finances;

- (e) whether any offence was an offence to which the Sex Offenders (Jersey) Law 2010<sup>8</sup> applies by virtue of Article 2 of that Law or, if it had been committed in Jersey, would have been such an offence;
- (f) whether, in respect of the performers list or any equivalent list, the performer –
  - (i) was refused inclusion in it,
  - (ii) was included in it subject to conditions,
  - (iii) was removed from it, or
  - (iv) is currently suspended from it,

and, if so, the facts relating to the incident which led to such action and the reasons given for such action by the holder of the list.

### **34 Procedure for removal under Regulation 30**

- (1) Where the Medical Director is considering removing a performer from the performers list on a ground in Regulation 30, the Medical Director shall give the performer –
  - (a) notice of any concern that the Medical Director is taking into consideration; and
  - (b) notice of what action the Medical Director is considering, and on what grounds.
- (2) The performer shall have the right, within 28 days of notice being given under paragraph (1)(b), to make written representations to the Medical Director.
- (3) If the performer makes written representations within the time required by paragraph (2), the Medical Director must take them into account before reaching his or her decision.
- (4) Where the Medical Director decides to remove a performer from the performers list on a ground in Regulation 30, the performer shall not be removed from the performers list until whichever is the later of –
  - (a) the expiry of the period of 28 days beginning with the date of the decision;
  - (b) the date on which any appeal against the decision is concluded.

### **35 Readmission where conviction overturned**

- (1) Where a practitioner has been removed from the performers list solely on the ground that the performer has been convicted of a criminal offence and that conviction is overturned on appeal, the Medical Director may agree to include the practitioner in the performers list without the need for the practitioner to provide an application that complies with all, or any particular provision of Schedule 1 if the Medical Director is satisfied that

there are no other matters that need to be considered in respect of the practitioner's inclusion in the performers list.

- (2) If the conviction is reinstated on appeal, the previous decision to remove the practitioner from the performers list is, once again, to have effect.

## **PART 5**

### **REVIEWS, REDETERMINATIONS AND APPEALS**

#### **36 Review by Medical Director of additional conditions or suspension**

- (1) The Medical Director may at any time review –
  - (a) his or her decision to impose or vary additional conditions applicable in a performer's case; or
  - (b) his or her decision to suspend a performer on the ground in Regulation 23(a) or (b) (unless the period of suspension has been extended by decision of a sub-panel of the Performers List Appeals Panel).
- (2) The Medical Director must review a decision described in paragraph (1) when requested by the performer in accordance with paragraph (3) and (4).
- (3) A request under paragraph (2) may not be made until 3 months have expired following the date the decision to be reviewed was made.
- (4) After a review of a decision described in paragraph (1) has taken place, the performer cannot request a further review of the decision until 6 months have expired following the date of the decision on the last review.
- (5) Before reviewing a decision described in paragraph (1), the Medical Director must give the performer –
  - (a) notice of any concern regarding the performer that the Medical Director proposes to take into consideration when conducting the review;
  - (b) notice of the action that the Medical Director is considering and on what grounds; and
  - (c) the opportunity to make written representations to the Medical Director within 28 days of the notice described in sub-paragraph (b).
- (6) If the performer makes written representations, the Medical Director must take them into account before reaching his or her decision.
- (7) The Medical Director may, on a review of a decision to impose additional conditions at the time of a performer's inclusion in the performers list, decide to –
  - (a) vary the conditions;
  - (b) impose different conditions;
  - (c) remove the conditions; or



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- (d) remove the performer from the performers list.
  - (8) The Medical Director may, on a review of a decision to suspend the performer, decide –
    - (a) subject to Regulation 26(4), to end, maintain or vary the period of suspension;
    - (b) to impose additional conditions; or
    - (c) to remove the performer from the performers list.
  - (9) The Medical Director may not review, and the performer may not request a review of –
    - (a) a decision to suspend a performer under Regulation 23(c) or (d);
    - (b) a decision to impose additional conditions, where the performer has not notified his or her agreement to be included in the performers list subject to those conditions.

### **37 Redetermination of decision of determining officer**

- (1) Subject to paragraph (2), a person shall have a right to a redetermination of a decision made by a determining officer in the person's case.
- (2) An application for a redetermination must be made, in writing, to the Medical Director no later than 28 days after the person is notified of the decision, in accordance with Regulation 43.
- (3) The Medical Director may, if he or she considers appropriate, accept an application made after the expiry of the period described in paragraph (2).
- (4) The Medical Director shall give the person the opportunity to put his or her case in writing to the Medical Director, by a time and on a day specified by the Medical Director.
- (5) The Medical Director shall take into account the appellant's written representations before reaching his or her decision.
- (6) The Medical Director may decide to uphold the decision of the determining officer or substitute his or her own decision.

### **38 Appeal against decision of Medical Director**

- (1) An applicant for inclusion in the performers list, or a performer (the "appellant"), has a right of appeal against any decision of the Medical Director made in the applicant's or performer's case under these Regulations.
- (2) In the case of an appeal against removal from the performers list on a ground in Regulation 29, a person shall only have a right of appeal on the ground that, in making the decision, the Medical Director erred on a matter of fact.
- (3) An appeal against a decision shall be made, in writing, to the chairman of the Performers List Appeals Panel no later than 28 days after the

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appellant is notified, in accordance with these Regulations, of the decision.

- (4) The chairman of the Performers List Appeals Panel may, if he or she considers appropriate, accept an appeal made after the expiry of the period described in paragraph (3).

### **39 Performers List Appeals Panel**

- (1) The Minister for Health and Social Services shall appoint a Performers List Appeals Panel.
- (2) The Jersey Appointments Commission established by Article 17 of the Employment of States of Jersey Employees (Jersey) Law 2005<sup>9</sup> shall oversee the selection of persons for appointment under paragraph (1).
- (3) The members of the Performers List Appeals Panel shall be –
- (a) at least one legal member, being a person with experience of or training in the conduct of appeal proceedings;
  - (b) at least one practitioner member, being a person who –
    - (i) is authorized to practise general medical practice in a country or territory outside Jersey, and
    - (ii) has never practised general medical practice in Jersey; and
  - (c) at least one lay member, being a person resident in Jersey who is not a person described in sub-paragraph (a) and has never practised medicine in any place.
- (4) The member described in paragraph (3)(a) shall be the chairman of the Panel or, if there is more than one such member, the Minister for Health and Social Services shall appoint one of them as the chairman of the Panel.
- (5) Upon an application being made under Regulation 26(5) or an appeal being made under Regulation 38, the chairman of the Panel shall convene a sub-panel of its members to hear the matter.
- (6) A sub-panel shall comprise –
- (a) one legal member, described in paragraph (3)(a);
  - (b) one practitioner member, described in paragraph (3)(b); and
  - (c) one lay member, described in paragraph (3)(c).
- (7) When convening a sub-panel, the chairman shall not select any member who has worked with, or is or was a patient of, the suspended practitioner, in the case of an application under Regulation 26(5), or the appellant, in the case of an appeal under Regulation 38, or is otherwise conflicted in the matter.

### **40 Procedures and decisions of sub-panel of the Performers List Appeals**

- (1) Schedule 3 has effect to specify procedures for a hearing before a sub-panel convened under Regulation 39.

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- (2) On hearing an appeal made under Regulation 38, the sub-panel shall redetermine the matter and may –
    - (a) uphold the decision of the Medical Director; or
    - (b) substitute its own decision and direct the Medical Director to take the necessary action to implement the decision.
  - (3) A sub-panel may, when making a decision on an appeal, state that it is of the opinion that there is no realistic prospect of a further review being successful if held one year after its decision.

#### **41 Review of appeal by sub-panel of the Performers List Appeals Panel**

- (1) A sub-panel of the Performers List Appeals Panel that has decided an appeal under Regulation 40(2) –
  - (a) must review its decision following a request from the appellant; or
  - (b) may review its decision on its own initiative.
- (2) A request under paragraph (1)(a) may not be made until one year has expired following the date of the earlier decision or, if the sub-panel made a statement under Regulation 40(3), the 3 years have expired following that date.
- (3) On reviewing its decision, the sub-panel may vary the decision or make a fresh decision, and direct the Medical Director to take the necessary action to implement the variation or fresh decision.
- (4) The chairman of the Performers List Appeal Panel may, for the purposes of a review by a sub-panel –
  - (a) select a further member to sit on the sub-panel, to replace a person who is no longer a member of the Performers List Appeals Panel; or
  - (b) remove a member from the sub-panel, if it appears to the chairman that any circumstances have arisen which, under Regulation 39(7), would have prevented the member's selection to sit on the sub-panel, and select a further member to sit on the sub-panel in his or her place.

#### **42 Appeal against decision of sub-panel of the Performers List Appeals Panel**

- (1) An applicant for inclusion in the performers list, or a performer (the "appellant"), has a right of appeal to the Royal Court against any decision of a sub-panel of the Performers List Appeals Panel made in the applicant's or performer's case under these Regulations.
- (2) An appeal against a decision shall be made no later than 28 days after the appellant is notified, in accordance with these Regulations, of the decision.
- (3) On hearing an appeal made under this Regulation, the Royal Court may –
  - (a) uphold the decision of the sub-panel; or

- (b) substitute its own decision and direct the Medical Director to take the necessary action to implement the decision.

## **PART 6**

### GENERAL AND CLOSING

#### **43 Notification of decisions**

- (1) A determining officer or the Medical Director who makes a decision under these Regulations in respect of an applicant for inclusion in the performers list or a performer must notify that applicant or performer of the decision, in writing.
- (2) Where the decision is adverse to the applicant or performer, the notice given must also –
  - (a) give the reasons for the decision (including any facts relied upon); and
  - (b) explain the applicant's or performer's rights to a review, redetermination or appeal under Part 5, the time within which such rights must be exercised and how they may be exercised.
- (3) If the notice is of a decision to suspend a performer with immediate effect, the notice must be given as soon as is practicable.
- (4) Otherwise, the notice must be given no later than 7 days after the decision.

#### **44 Information sharing**

- (1) The Medical Director may share information obtained or received under or for the purposes of these Regulations with –
  - (a) the Minister for Social Security, for purposes connected with the Minister's approval of practitioners under the 1967 Law;
  - (b) the Minister for Health and Social Services, for purposes connected with the Minister's functions under the 1960 Law;
  - (c) a responsible officer appointed under Article 10C of the 1960 Law, for purposes connected with the discharge of that officer's functions under that Law.
- (2) The Medical Director may use information obtained or received under or for the purposes of these Regulations for purposes connected with the discharge of his or her functions as the responsible officer, appointed under Article 10C of the 1960 Law, for performers.
- (3) A person who receives information from the Medical Director pursuant to paragraph (1) may only use it for the purposes specified in the person's case in that paragraph.
- (4) The Medical Director shall keep secure information obtained or received under or for the purposes of these Regulations.

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- (5) When the Medical Director no longer needs to keep information obtained or received under or for the purposes of these Regulations, the Medical Director shall either cause the information to be destroyed in a secure manner or return it to the person who provided it.

#### **45 Transitional arrangements**

- (1) Upon commencement, an existing approved medical practitioner shall be included in the performers list.
- (2) An existing approved medical practitioner shall, within the period of 12 months following commencement, supply to the Primary Care Governance Team the information and documents, described in paragraphs 2 and 3 of Schedule 1, that would be required of an applicant for inclusion in the performers list, and the declaration, described in paragraph 7 of Schedule 1, that would be required from such an applicant.
- (3) Part 4 shall apply as if a failure, without reasonable excuse, to comply with paragraph (2) was a failure by a performer who is an existing approved medical practitioner to comply with an additional condition applicable in his or her case.
- (4) These Regulations shall apply to a medical practitioner who was first approved pursuant to an application for approval made on or before 1st November 1993 with the omission of Regulations 4(b), 6(b) and 29(1)(b) and paragraph 3(b) of Schedule 1.
- (5) These Regulations shall apply to a medical practitioner who was first approved pursuant to an application for approval made after 1st November 1993 but before commencement with the following modifications –
- (a) the references in Regulations 4(b), 6(b) and 29(1)(b) to inclusion in the General Practitioner Register shall be construed as references to compliance with the condition in the Health Insurance (Conditions for Approval of Medical Practitioners) (Jersey) Regulations 1993;
- (b) the requirement imposed by paragraph (2) of this Regulation and paragraph 3 of Schedule 1 to supply a certificate that the practitioner is registered in the General Practitioner Register shall be construed as a requirement to supply a certificate or other evidence that the practitioner complies with the condition mentioned in sub-paragraph (a).
- (6) In this Regulation –
- “commencement” means commencement of these Regulations;
- “existing approved medical practitioner” means a medical practitioner who, immediately before commencement, is an approved medical practitioner, and whose approval has not been withdrawn for a definite or indefinite period under Article 27(2) of the 1967 Law.

**46 Citation and commencement**

These Regulations may be cited as the Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 2014 and shall come into force on 1st October 2014.

**L.-M. HART**

*Deputy Greffier of the States*

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**SCHEDULE 1**

(Regulation 5)

**REQUIREMENTS FOR APPLICATION**

**1 Information to be provided**

An application for inclusion in the performers list shall contain the information required by paragraphs 2 and 4.

**2 Basic information**

- (1) An application shall contain –
  - (a) the full name with which the applicant is registered under the Medical Act 1983;
  - (b) the applicant's gender and date of birth;
  - (c) the residential address with which the applicant is registered under the Medical Act 1983;
  - (d) the applicant's telephone number and email address.
- (2) An application shall contain the following information regarding the applicant's qualifications and past practice –
  - (a) a full description of the applicant's medical qualifications including the institution which awarded them;
  - (b) in respect of the applicant's registration in the United Kingdom –
    - (i) the registration number assigned to the applicant in respect of his or her registration in the UK practitioners register,
    - (ii) the date the applicant was first registered in the UK practitioners register,
    - (iii) the date by which the applicant is next due, in accordance with Regulations made under section 32(1)(c) of the Medical Act 1983, to pay a retention fee in respect of the retention of the applicant's name in the UK practitioners register;
    - (iv) the applicant's next submission date, notified in accordance with regulation 6 of the General Medical Council (Licence to Practise and Revalidation) Regulations Order of Council 2012.
- (3) An application shall provide details of any conditions imposed by the General Council upon, or undertakings given by the applicant in connection with, the applicant's registration under the Medical Act 1983 or his or her licence to practise.
- (4) An application shall state whether, pursuant to Regulations made under section 45A of the Medical Act 1983, when the applicant commences practise in Jersey, the applicant will have, and continue to have, a responsible officer in the United Kingdom and, if the applicant will have

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such an officer, the name and address of the applicant's responsible officer in the United Kingdom.

- (5) An application shall contain –
- (a) the name, address and email address of each employer for whom and each company, partnership or other entity as a director, partner or other officer of which, the applicant intends to provide medical services in Jersey;
  - (b) whether the applicant intends to provide medical services in Jersey on a self-employed basis;
  - (c) the addresses at which the applicant intends to provide medical services in Jersey;
  - (d) the date from which the applicant intends to provide medical services in Jersey; and
  - (e) whether the services are intended to be provided indefinitely or, if not, the period for which the services are intended to be provided.
- (6) An application shall –
- (a) provide details of any findings against the applicant regarding any matter relating to fraud, where the outcome was adverse;
  - (b) provide details of any investigation into the applicant's professional conduct by any licensing, regulatory or other body, where the outcome was adverse;
  - (c) provide details of any investigation by an employer into the applicant's professional conduct, where the outcome was adverse;
  - (d) provide details of any offence of which the applicant has been convicted –
    - (i) in Jersey, or
    - (ii) elsewhere, if the offence, if committed in Jersey, would be an offence in Jersey.
- (7) An application shall state whether, to the applicant's knowledge, the applicant is currently subject to any investigation or proceedings of the following description –
- (a) an investigation into, or proceedings regarding, the applicant's professional conduct by any licensing, regulatory or other body, including any investigation into, or proceedings regarding, any matter relating to fraud;
  - (b) an investigation into, or disciplinary proceedings regarding, the applicant's professional conduct by an employer; or
  - (c) an investigation or proceedings that might lead to the applicant's conviction for an offence in Jersey or to a conviction elsewhere if the act, if committed in Jersey, would be an offence in Jersey,
- and, if the applicant is subject to any such investigation or proceedings, provide details.



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**3 Basic documents**

The application must be accompanied by a certificate issued by the registrar of the General Council under section 34A of the Medical Act 1983 –

- (a) that the applicant is registered in the register kept under section 2 of the Medical Act 1983 and holds a licence to practise; and
- (b) that the applicant is registered in the General Practitioner Register.

**4 Further information**

- (1) An application shall contain a chronology of the applicant's professional experience in –
  - (a) general practice;
  - (b) hospital appointments; and
  - (c) any other professional experience.
- (2) The chronology must include –
  - (a) the start and end date for each post;
  - (b) the reasons for leaving each post including, if the applicant was dismissed, the reasons for dismissal;
  - (c) the reasons for any gap between the end of one post and the start of the next; and
  - (d) evidence of each post.
- (3) An application shall state whether, to the applicant's knowledge, the applicant is currently subject to an investigation or proceedings which may lead to the applicant's disqualification, removal or suspension from an equivalent list and, if the applicant is subject to any such investigation or proceedings, provide details.
- (4) An application shall –
  - (a) state whether or not the applicant has any outstanding application, including a deferred application, to be included in an equivalent list and, if so, particulars of the application;
  - (b) provide details of any equivalent list –
    - (i) from which the applicant has been removed,
    - (ii) in which the applicant has been refused inclusion,
    - (iii) in which the applicant has been included subject to conditions, or
    - (iv) from which the applicant is currently suspended, together with an explanation why; and
  - (c) state whether the applicant is or has ever been subject to a national disqualification;
- (5) An application shall contain the name and addresses of 2 referees who are willing to provide clinical references relating to 2 recent posts held by the applicant as a medical practitioner (which may include a current post), each of which lasted at least 3 months without a significant break.

- (6) If the applicant is unable to provide the names and addresses of 2 referees as required by sub-paragraph (5), the applicant must provide the name and address of one or, as the case requires, 2 alternative referees and explain why sub-paragraph (5) cannot be complied with.

## **5 Further documents**

- (1) An application for inclusion in the performers list shall be accompanied by evidence that the applicant has, or will have, an appropriate indemnity arrangement which provides, or will provide, the applicant with cover in respect of liabilities that may be incurred in carrying out the applicant's practice.
- (2) An application for inclusion in the performers list shall be accompanied by an enhanced criminal record certificate issued not more than 6 months before the application is made.

## **6 Application for temporary inclusion in the performers list**

- (1) Notwithstanding paragraph 1, an application for temporary inclusion in the performers list shall provide only –
- (a) the information specified in paragraph 2(1), (2) and (3); and
  - (b) details of any equivalent list in which the applicant is included.
- (2) Notwithstanding paragraph 1, an application for temporary inclusion in the performers list is not required to provide any documents.

## **7 Form of application**

An application shall be made using a form provided by the Minister for Health and Social Services for the purpose and shall contain a declaration by the applicant –

- (a) that, to the best of the applicant's knowledge, information and belief, the information provided by him or her is true and complete;
- (b) that the applicant shall, as soon as is reasonably practicable, inform the Primary Care Governance Team, in writing, of any change in or addition to the information required by paragraph 2 that occurs after the applicant's application is made and before the application is determined; and
- (c) consenting to a determining officer requesting from –
  - (i) any employer or former employer of the applicant,
  - (ii) any partnership in which the applicant is or was a partner or any company or other entity of which the applicant is or was a director or other officer, or
  - (ii) from any body that licenses or regulates the practice of medicine, information relating to a current investigation into the applicant or to a past investigation into the applicant, where the outcome was adverse.

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**SCHEDULE 2**

(Regulation 9)

**GENERAL CONDITIONS APPLICABLE TO ALL PERFORMERS**

**1 Changes in circumstances**

- (1) A performer must notify the Primary Care Governance Team, within 7 days, in writing, of any material change in the information provided by the performer in his or her application, made as required by Schedule 1.
- (2) Without prejudice to the generality of the requirement in subparagraph (1), a performer must notify the Primary Care Governance Team, in writing, within 7 days of the performer –
  - (a) being convicted in the British Islands of a criminal offence;
  - (b) being convicted elsewhere in the world of a criminal offence that, if committed in Jersey, would be an offence in Jersey;
  - (c) being charged with a criminal offence in the British Islands;
  - (d) being charged with a criminal offence elsewhere in the world which, if committed in Jersey, would be an offence in Jersey;
  - (e) becoming the subject of any investigation by any regulatory or other body;
  - (f) becoming the subject of any investigation in respect of any current or previous employment;
  - (g) being informed of the outcome of any investigation in respect of any current or previous employment which includes a finding adverse to the performer;
  - (h) becoming the subject of any investigation by the NHS Business Services Authority established as a Special Health Authority under section 28 of the National Health Service Act 2006;
  - (i) being informed of the outcome of an investigation by the Authority mentioned in clause (h) which includes a finding adverse to the performer;
  - (j) becoming the subject of any investigation by the holder of any equivalent list that could lead to the performer's removal from the list;
  - (k) being removed or suspended from, refused inclusion in, or included subject to conditions in, any list; or
  - (l) becoming subject to a national disqualification.
- (3) A performer must, each year, when requested by the Medical Director or a determining officer –
  - (a) confirm, in writing that the information held by the Primary Care Governance Team in respect of the performer is correct; or
  - (b) notify the Primary Care Governance Team, in writing, of any change in that information.

- (4) The Medical Director or a determining officer may request further information regarding any change or event mentioned in sub-paragraph (1), (2) or (3) from –
  - (a) the performer's current or a former employer;
  - (b) the holder of an equivalent list;
  - (c) any regulatory or other body.
- (5) Where a request is made under sub-paragraph (3), the performer must consent to the provision of information in response to the request.
- (6) A performer must notify the Primary Care Governance Team, in writing, within 7 days, of the performer's application to be admitted, or the performer's admission, to an equivalent list.

## **2 Conduct**

- (1) A performer must follow guidance published by the General Council regarding good medical practice.
- (2) A performer must, if requested by the Medical Director or a determining officer, provide an enhanced criminal record certificate issued within such period as is specified in the request.
- (3) The Medical Director or a determining officer must have reasonable cause for making a request under sub-paragraph (2).

## **3 Appraisals**

- (1) A performer must participate in appropriate and relevant appraisal procedures.
- (2) The appraisals required by sub-paragraph (1) must involve obtaining and taking account of all available information relating to the performer's fitness to practise in the work carried out by the performer as a provider of medical services and any other clinical practice carried out by the performer during the appraisal period.
- (3) An appraisal of a performer and any information or documents taken into account in the conduct of the appraisal, must be submitted to the Medical Director.

## **4 Assessments**

- (1) A performer must, if requested by the Medical Director or a determining officer, take part in an assessment of the performer's knowledge of English.
- (2) A performer must, if requested by the Medical Director or a determining officer, co-operate with an assessment by the a body or organization having the appropriate qualifications and experience to assess the performer's clinical skills and performance.
- (3) The Medical Director or a determining officer must have reasonable cause for making a request under sub-paragraph (2) or (3).

**SCHEDULE 3**

(Regulation 40(1))

**HEARING OF APPEAL**

**1 Interpretation of Schedule 3**

In this Schedule –

“chairman” means the chairman of the Panel;

“hearing” means the hearing of an appeal by a Panel;

“Panel” means a sub-panel of the Performers List Appeals Panel convened under Regulation 39(5) to hear an appeal;

“working day” means a day other than a Sunday, Good Friday, Christmas Day or a day that, pursuant to an Act made under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951<sup>10</sup>, is to be observed as a public holiday.

**2 Hearing to be in private**

A hearing shall be held in private.

**3 Notice of hearing**

- (1) The Panel shall fix a date and place for the hearing and shall give the appellant and the Medical Director not less than 10 working days’ notice of the date and place fixed.
- (2) The notice required by sub-paragraph (1) shall also inform the appellant and the Medical Director of their rights under paragraph 4.

**4 Procedure**

- (1) The appellant and the Medical Director shall be entitled to appear and to be heard at the hearing.
- (2) The appellant and the Medical Director may each be represented by any person and that person shall be entitled to appear and to be heard at the hearing.
- (3) The Panel may proceed with the hearing in the absence of the appellant or the Medical Director, whether represented or not, if it appears to be just and proper to do so.
- (4) The Panel may adjourn the hearing from time to time, as may appear necessary for the due hearing of the appeal.

**5 Evidence**

The appellant and the Medical Director may each call witnesses.

**6 Determination of appeal without hearing**

Notwithstanding the foregoing provisions of this Schedule, the Panel may, with the agreement of the appellant and Medical Director, determine the appeal without a hearing.

**7 Decision of Panel**

- (1) The Panel's decision shall be in writing, signed by the chairman, and include a statement of the reasons for the decision.
- (2) The Panel's decision shall be sent to the appellant, the Medical Director and the Minister for Health and Social Services.

**8 General provision as to procedure**

Except as provided by this Schedule, the procedure at a hearing shall be determined by the Panel.

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- 1* chapter 26.500
  - 2* chapter 20.600
  - 3* chapter 26.500
  - 4* chapter 23.320
  - 5* chapter 23.815
  - 6* chapter 15.240
  - 7* chapter 26.500
  - 8* chapter 23.815
  - 9* chapter 16.325
  - 10* chapter 15.560