



National Health Service in Scotland
Management Executive

St. Andrew's House
Edinburgh EH1 3DG

4 July 1995

Dear Colleague

PROFESSIONS SUPPLEMENTARY TO MEDICINE: ISSUE
OF DIRECTIONS IN RELATION TO THE STAFF OF NHS
CONTRACTORS

Summary

1. The purpose of this letter is to correct an anomaly in the direction governing the employment of staff of NHS contractors. Existing directions require practitioners of the professions supplementary to medicine ie, occupational therapists, physiotherapists, radiographers, orthoptists, dieticians, chiropodists and medical laboratory scientific officers, who are employed in that capacity in the NHS or by local authorities or by the agents of local authorities to be state registered. There is, however, no such requirement in respect of practitioners employed by agents of the NHS.

2. This means that patients have the assurance of treatment by stage registered practitioners only so long as this is given by directly employed staff within an NHS establishment. The rationale of the enclosed direction is to offer the same level of assurance to patients whatever the setting.

Action

3. From 1 June 1995, the attached directions, which are issued under Section 2(5) of the National Health Service (Scotland) Act 1978 in respect of Health Boards and under paragraph 6(2)(a) of Schedule 7A to the National Health Service (Scotland) Act 1978

Addressees

For action:
General Managers,
Health Boards

Acting General Manager,
Common Services Agency

General Manager,
State Hospitals Board for Scotland

Chief Executives,
NHS Trusts

For information:
General Manager,
Health Education Board
for Scotland

Executive Director,
SCPMDE

Enquiries to:

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in respect of NHS Trusts, will require that contracts entered into after that date for the provision of services by persons or bodies who are not NHS bodies, stipulate that services provided by the professions supplementary to medicine must be provided by state registered practitioners.

4. This letter should be copied to Unit General Managers for action as required.

Yours sincerely

MR Sibbald

M R SIBBALD



DIRECTION TO HEALTH BOARDS

QUALIFICATION OF PERSONS CONCERNED WITH THE PROVISION OF NHS SERVICES UNDER ARRANGEMENTS MADE BY HEALTH BOARDS

The Secretary of State for Scotland, in exercise of powers conferred on him by section 2(5) of the National Health Service (Scotland) Act 1978, hereby gives the following Direction to Health Boards.

Application and Commencement

1. This Direction shall have effect in relation to Health Boards, and shall come into force on 1 July 1995.

Qualifications of Persons Engaged by Health Boards' Agents

2. (1) No Health Board shall make arrangements for the provision of services under the National Health Service (Scotland) Act 1978 by any agent unless the arrangements include a term to the effect that the agent shall not, in connection with the provision of those services, engage or employ any unqualified person in a Scheduled capacity.

(2) For the purposes of sub-paragraph (1) above, a person is an unqualified person unless:-

(a) his/her name is included in the relevant register; or

(b) he/she is, by virtue of paragraph 3 of this Direction to be treated as if his/her name were included in the relevant register.

(3) Nothing in sub-paragraph (1) above is to be taken as prohibiting the provision of services by an agent in accordance with arrangements made before 1 July 1995.

Persons to be Treated as Registered Persons

3. Where, as respects any Scheduled capacity:-

(a) the name of a person is not included in the relevant register; but

(b) that person -

(i) is, or is the spouse of, a national of an EEA State,
or



(ii) is the child of a national of an EEA State and is either under the age of 21 or dependent on that national; and

(c) that person would, if he/she applied to the designated body, be entitled, by virtue of an enforceable Community right, to practise in the Scheduled capacity in the United Kingdom; that person shall be treated for the purposes of paragraph 2 of this Direction as if his/her name were included in the relevant register.

Interpretation

4. In this Direction:-

"agent" means any person who, or any body which, is not a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990;

"the designated body" means, as respects any Scheduled capacity, the body which is specified in relation to that capacity in Column (2) of the Schedule;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the protocol signed at Brussels on 17 March 1993;

"EEA State" means a State which is a contracting party to the EEA Agreement but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include the State of Liechtenstein;

"enforceable Community right" has the meaning assigned to it in section 2(1) of the European Communities Act 1972;

"the relevant register" means, as respects any Scheduled capacity, such register as is maintained pursuant to section 2(1) of the Professions Supplementary to Medicine Act 1960 by the body, being a Board of the Council for Professions Supplementary to Medicine, which is specified in relation to that capacity in Column (2) of the Schedule;

"the Schedule" means the Schedule to this Direction;

"Scheduled capacity" means a capacity specified in Column (1) of the Schedule.

Signed on behalf of the
Secretary of State for Scotland

M R Sibbald

M R SIBBALD
Director of Human Resources

29th June 1995

**SCHEDULE
Paragraph 4**

Capacities, Bodies Maintaining Registers and Designated Bodies

(1) Capacity	(2) Body maintaining register, and designated body
Chiropodist	Chiropodists Board
Dietitian	Dietitians Board
Medical Laboratory Scientific Officer	Medical Laboratory Technicians Board
Occupational Therapist	Occupational Therapists Board
Orthoptist	Orthoptists Board
Physiotherapist	Physiotherapists Board
Radiographer	Radiographers Board



NATIONAL HEALTH SERVICE AND COMMUNITY CARE ACT 1990

DIRECTION TO NATIONAL HEALTH SERVICE TRUSTS

**QUALIFICATIONS OF PERSONS CONCERNED WITH THE PROVISION OF
NHS SERVICES UNDER ARRANGEMENTS MADE BY NHS TRUSTS**

The Secretary of State for Scotland, in exercise of powers conferred on him by paragraph 6(2)(a) of Schedule 7A to the National Health Service (Scotland) Act 1978 and of all other powers enabling him in that behalf, hereby gives the following Direction:-

Application and Commencement

1. This Direction shall have effect in relation to National Health Service Trusts in Scotland and shall come into force on 1 July 1995.

Compliance by NHS Trusts with Direction to Health Boards

2. National Health Service Trusts shall comply with the Direction given on 1 July 1995 to Health Boards (in connection with the qualifications of persons concerned with the provision of NHS services under arrangements made by Health Boards), and for this purpose this Direction shall have effect as if any reference in them to a Health Board were a reference to a National Health Service Trust.

Signed on behalf of the
Secretary of State for Scotland

MR SIBBALD

M R SIBBALD
Director of Human Resources

29th June 1995