1971. No. 271 [C]

HEALTH SERVICES

Services Committee

REGULATIONS, DATED 20TH AUGUST 1971, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE HEALTH SERVICES ACT (NORTHERN IRELAND) 1971.

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The Ministry of Health and Social Services in exercise of the powers conferred on it by Sections 6, 7, 13, 14, 15 and 87 of the Health Services Act (Northern Ireland) 1971(a), and of all other powers enabling it in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Health Services (Services Committee) Regulations (Northern Ireland) 1971 and shall come into operation on the 19th October 1971.

Interpretation

2.—(1) In these Regulations,

"the Act" means the Health Services Act (Northern Ireland) 1971;

"Board" means the Northern Ireland General Health Services Board;

"chemist" means a person registered in the Register of Pharmaceutical Chemists for Northern Ireland made out and maintained under Section 9 of the Pharmacy and Poisons Act (Northern Ireland) 1925(b);

"dental officer" means a dental officer appointed by the Board;

"dispensing optician" means a person or body corporate qualified as a dispensing optician in accordance with the Health Services (Supplementary Eye Services) Regulations (Northern Ireland) 1961(c);

"drugs" includes in the case of persons receiving general medical services medicines, oxygen and any prescribed chemical reagents and in the case of persons receiving general dental services means such drugs and medicines as are included in a list for the time being approved by the Ministry;

"Drug Tariff" means the statement prepared by the Ministry under Regulation 28 of the General Service Regulations as hereinafter defined specifying the prices and standards of drugs and appliances to be provided under those Regulations;

"General Dental Regulations" means the Health Services (General Dental Services) Regulations (Northern Ireland) 1964(d);

"General Service Regulations" means the Health Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1956(e);

"health centre" means premises at which facilities are available for all or any of the purposes specified in Section 20 of the Act;

"Local Medical Committee", "Local Dental Committee", "Local Pharmaceutical Committee", "Local Ophthalmic Medical Committee" and "Local Ophthalmic Optical Committee" mean the committees recognised by the Board under Section 6 of the Act;

"medical adviser" means a registered medical practitioner in the full-time employment of the Board;

"ophthalmic medical practitioner" means a medical practitioner having the qualifications prescribed by the Health Services (Supplementary Eye Services) Regulations (Northern Ireland) 1961;

"ophthalmic optician" means a person or body corporate qualified as an ophthalmic optician in accordance with the Health Services (Supplementary Eye Services) Regulations (Northern Ireland) 1961;

(a) 1971. c. 1 (N.I.).
(b) 15 & 16 Geo. 5. c. 8 (N.I.).
(c) S.R. & O. (N.I.) 1961, No. 123
(d) S.R. & O. (N.I.) 1964, No. 60.
(e) S.R. & O. (N.I.) 1956, No. 150.

"optician" means an ophthalmic optician or a dispensing optician as the context may require;

"practitioner" means a registered medical practitioner, an ophthalmic medical practitioner or a registered dental practitioner;

"treatment" in relation to general medical services has the same meaning as in the General Service Regulations and in relation to general dental services has the same meaning as in the General Dental Regulations;

"the terms of service" means the terms of service for medical practitioners contained in Part I of the First Schedule to the General Service Regulations, the terms of service for chemists contained in Part I of the Third Schedule to the General Service Regulations, the terms of service for dental practitioners contained in the First Schedule to the General Dental Regulations, or the terms of service for ophthalmic medical practitioners, ophthalmic opticians and dispensing opticians contained in the First Schedule to the Health Services (Supplementary Eye Services) Regulations (Northern Ireland) 1948(f), as the case may be;

"the Tribunal" means the Tribunal constituted under Schedule 3 to the Act.

(2) The Regulations shall also apply to any other person, firm or body corporate whose name is included in the pharmaceutical list for the purpose of supplying appliances only.

Constitution of Services Committee

3.—(1) For the purposes of these Regulations the Board shall draw up the following panels of persons:—

(i) a panel of medical practitioners nominated by the Local Medical Committees;

(ii) a panel of ophthalmic medical practitioners nominated by the Local Ophthalmic Medical Committee;

(iii) a panel of dental practitioners nominated by the Local Dental Committee;

(iv) a panel of chemists nominated by the Local Pharmaceutical Committee;

(v) a panel of opticians nominated by the Local Ophthalmic Optical Committee; and

(vi) a panel of lay persons appointed by the Board, being neither members of the Board nor officers of the Ministry.

(2) Any complaint made by a person against a practitioner, chemist or optician in respect of an alleged failure to comply with the terms of service shall be investigated by a committee (hereinafter referred to as the "Services Committee").

(3) The chairman and deputy chairman of the Services Committee shall be appointed by the Board from their lay members.

(4) The terms of office of the chairman and deputy chairman shall be fixed by the Board.

(5) The members of the Services Committee shall be appointed by the Board and shall consist of two members drawn from the panel of lay persons, and

(*a*) where the complaint is made against a medical practitioner, two members drawn from the panel of medical practitioners;

(f) S.R. & O. (N.I.) 1948, No. 166.

(*b*) where the complaint is made against an ophthalmic medical practitioner, two members drawn from the panel of ophthalmic medical practitioners;

(*c*) where the complaint is made against a dental practitioner, two members drawn from the panel of dental practitioners;

(*d*) where the complaint is made against a chemist, two members drawn from the panel of chemists; and

(*e*) where the complaint is made against an optician, two members drawn from the panel of opticians:

Provided that the members of the Services Committee shall so far as is practicable be drawn from the area in which the practitioner, chemist or optician resides or practices.

(6) If in the opinion of the Services Committee any matter referred to it involves a question relating to a practitioner, chemist or optician whose profession is not represented on the Services Committee as constituted, the Committee shall inform the Board who shall proceed to reconstitute the Services Committee by adding two members drawn from the panel of representatives of the profession to which the practitioner, chemist or optician who appears to be involved, belongs.

(7) If in the opinion of the chairman any member of the Services Committee is interested, or is partner, principal, assistant or manager to a practitioner, chemist or optician who is interested, in a question referred to it, or if the practitioner, chemist or optician objects to any member on any personal or other reasonable ground specified by him, that member shall take no part in the hearing and a member drawn from the same panel of persons shall be appointed by the Board to act in his place.

(8) Where a case has been opened before the Services Committee and the hearing is adjourned for the purpose of taking further evidence or of preparing or considering the report, a member of the Services Committee who was not present at the hearing shall not be entitled to be present or take part in the proceedings at the adjourned hearing, and it shall not be necessary for the secretary to send him notice of such hearing.

(9) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the Services Committee, but shall not be entitled to vote.

Investigations by Services Committee

4.—(1) (*a*) A person desiring to make a complaint under these Regulations against a medical practitioner, an ophthalmic medical practitioner, a chemist or an optician shall, within six weeks of the event which gave rise to the complaint, give written notice to the Board stating the substance of the matter which he desires to have investigated.

(*b*) A person desiring to make a complaint under these Regulations against a dental practitioner shall, within six months of completion of the treatment or within six weeks of the event which gave rise to the complaint came to his notice, whichever is the sooner, give written notice to the Board stating the substance of the matter which he desires to have investigated.

(*c*) Notwithstanding failure to give notice within the periods specified in sub-paragraphs (*a*) and (*b*) the Services Committee may investigate the matter if it is satisfied that such failure was occasioned by illness or other reasonable cause and—

(i) in the case of a complaint against a medical practitioner, an ophthalmic medical practitioner, a chemist or an optician the complaint is made within two months after the said event, or

(ii) in the case of a complaint against a dental practitioner the complaint is made within six months after the completion of the treatment or within two months after the matter came to the complainant's notice, whichever is the sooner, or

(iii) the practitioner, chemist or optician as the case may be consents to the investigation taking place notwithstanding the failure to give notice in time, or

(iv) the Board's consent to the investigation has been obtained.

(2) The Services Committee shall investigate any matters (other than any question arising under Regulations 16, 17, 18, 19, 20, 22, or 23) referred to it by the Ministry, the Board, or any committee of the Board duly authorised in that behalf by the Board, relating to the administration of general medical services, general dental services, pharmaceutical services or general eye services, whether or not any such matter has been raised on complaint under the foregoing provisions of this Regulation.

(3) The Services Committee shall perform such duties in connection with the testing of drugs and appliances as may be imposed on it by the scheme made for that purpose under Regulation 26 of the General Service Regulations.

Procedure of Services Committee

5.—(1) The Services Committee shall permit a party to an investigation to be assisted in the presentation of his case by some other person:

Provided that unless the complaint is referred to the Services Committee by the Ministry, the Board or any Committee of the Board duly authorised in that behalf by the Board, a person shall not be entitled in the capacity of counsel, solicitor or paid advocate to conduct the case for any party by addressing the Committee or cross-examining witnesses.

(2) The proceedings at the hearing before the Services Committee shall be private and no person shall be admitted to these proceedings except:—

(*a*) the parties to the investigation and the persons, if any, permitted to appear for the purpose of assisting it;

(*b*) the secretary or other officer of the Local Medical, Ophthalmic Medical, Pharmaceutical, Dental or Ophthalmic Optical Committee, whichever is concerned;

(*c*) persons whose attendance is required for the purpose of giving evidence and who shall, unless the Services Committee otherwise direct, be excluded from the hearing except when they are actually giving evidence; and

(*d*) such officers of the Ministry or the Board as they may appoint for the purpose.

(3) Schedule 1 shall apply with respect to the investigation of complaints, and to the procedure of the Services Committee.

(4) Where the Services Committee proceeds to a hearing it shall draw up a report stating such relevant facts as appear to it to be established by the evidence placed before it and the inferences which in its opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken and shall present the report to the Board and the Board shall accept as conclusive any finding of fact contained in the report. In presenting such report to the Board the Services Committee may, if it thinks fit, draw the attention of the Board

(*a*) to any previous reports made by the Services Committee; and

(*b*) where general eye services are involved to any previous reports made by a committee of the Northern Ireland Hospitals Authority prior to 1st October 1955

in connection with the practitioner, chemist or optician. The Services Committee may also draw the attention of the Board to any action taken by the Board, the Northern Ireland Hospitals Authority or the Ministry on such reports and may recommend that account should be taken thereof by the Board in reaching its decision.

Action by the Board

6. The Board shall send the Ministry a copy of the report of the Services Committee and a statement of the Board's decision thereon, which may include action in any one or more of the following ways:—

(*a*) if the investigation relates to the conduct of a general medical practitioner and the Board is satisfied after consultation with the Local Medical Committee that owing to the number of persons included in his list the practitioner is unable to give adequate treatment to all those persons, it may impose a special limit on the number of persons for whom the practitioner may undertake to provide treatment and in that event any number in excess of that limit shall be dealt with as though the list of the practitioner was by that number in excess of the general limit fixed for the list of practitioners in the area.

(*b*) The Board may recover from the practitioner, chemist or optician as the case may be, by deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the Services Committee), which have been reasonably and necessarily incurred by any person, or by another person on behalf of that person, owing to the failure of the practitioner, chemist or optician to comply with the terms of service, and any sum so recovered shall be paid to that person:

Provided that in the case of a dental practitioner, the maximum amount which may be deducted shall not exceed the cost of the treatment provided by another dental practitioner to the person concerned, calculated in accordance with Regulations made under the Act.

(*c*) If the Board is satisfied that a practitioner, chemist or optician has failed or neglected to comply with the terms of service applicable to him the Board may recover such amount as it thinks fit either by deduction from the remuneration of the practitioner, chemist or optician or otherwise, and such sum shall be a debt owing by the practitioner, chemist or optician to the Board.

(*d*) If the Board are of the opinion that the continued inclusion of the medical practitioner on the medical list, of the chemist on the pharmaceutical list, of the dental practitioner on the dental list or of the ophthalmic medical practitioner or optician on the ophthalmic list would be prejudicial to the efficiency of the services in question, they may make representation to that effect to the Tribunal,

(*e*) In the case of a dental practitioner the Board may, for a period not exceeding twelve months, require the practitioner to submit for prior approval to the Northern Ireland Dental Estimates Committee estimates in respect of any treatment other than an examination or emergency treatment.

Appeal to Ministry from decision of the Board

7.—(1) The Board shall send to the parties to an investigation a copy of the Services Committee report and of the Board's decision including a decision following a report by the chairman under paragraph (*a*) of Schedule 1 that there is no prima facie ground of complaint or that a complaint is frivolous or vexatious, and shall inform them of their right of appeal to the Ministry against any decision other than a decision to take action under Regulation 6(*d*) and of the Ministry's power on such an appeal to award costs.

(2) Subject to the next following Regulation any party aggrieved by such decision shall be entitled to appeal to the Ministry by sending to the Ministry notice of appeal within one month of the date on which the notification of the decision was received.

(3) The notice of appeal shall contain a concise statement of the grounds of appeal.

(4) The Board shall not make any deduction from the remuneration of a practitioner, chemist or optician under Regulation 6(*b*) pending the expiration of the period within which the practitioner, chemist or optician may give notice of appeal to the Ministry.

(5) The Ministry may, on the application of any person desiring to appeal, extend the time for giving notice of appeal.

(6) An application for the extension of the time for giving notice of appeal must be made in writing to the Ministry, stating the grounds for the application.

Representation by Board to Tribunal

8. An appeal shall not lie against a decision of the Board to make representations to the Tribunal with regard to the continued inclusion in any list of the name of any practitioner, chemist or optician and if the Board decide to make such representations and an appeal to the Ministry is made against their decision on other matters, the Ministry shall treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal and no such appeal shall be heard by the Ministry until the proceedings before the Tribunal shall have been concluded.

Procedure on Appeal

9.—(1) If the Ministry, after considering the notice of appeal and any further particulars furnished by the appellant, is of opinion that the said notice and particulars disclose no reasonable grounds of appeal it may dismiss the appeal:

Provided that an appeal by a practitioner, chemist or optician against a decision of the Board to take action under Regulation 6(*a*), (*b*), (*c*) or (*e*) shall not be dismissed without an oral hearing, unless the appellant does not desire such a hearing.

(2) The Ministry shall, unless it dismisses the appeal on the afore-mentioned ground, send a copy of the notice of appeal, and of any further particulars furnished by the appellant, to the Board and to the persons, if any, who were parties to the proceedings before the Services Committee or who appear to the Ministry to be interested in the appeal.

(3) The Ministry may, if it is of the opinion that the case is of such a nature that it can properly be determined without an oral hearing, dispense with an oral hearing and determine the appeal.

(4) In the event of an oral hearing the appellant, the Board or any person who has received notice of appeal may appear and take part in the proceedings, which shall be held in camera.

(5) For the purpose of an oral hearing the Ministry shall appoint officers of the Ministry or other persons, not exceeding three in number, to hold an enquiry and to draw up a report. The Ministry, after taking such report into consideration, shall give its decision in writing, with reasons therefor, which shall be final:

Provided that--

(*a*) where one of the parties to an appeal is a medical practitioner and the decision of the Board involves a finding that the practitioner has been guilty of a breach of the terms of service referred to in paragraph (6) the persons appointed to hear the appeal shall include a medical practitioner appointed by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of the medical profession.

(*b*) Where one of the parties to an appeal is a dental practitioner and the decision of the Board involves a finding that the dental practitioner has failed to complete satisfactorily dental treatment, or has failed to exercise reasonable care and skill, the persons appointed to hear the appeal shall include a dental practitioner appointed by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of the dental profession.

(*c*) Where one of the parties to an appeal is a chemist and the decision of the Board involves a finding that the chemist has failed to comply with the provisions of the Regulations governing pharmaceutical services, the persons appointed to hear the appeal shall include a chemist appointed by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of the pharmaceutical profession.

(*d*) Where one of the parties to an appeal is an ophthalmic medical practitioner and the decision of the Board involves a finding that he has failed to comply with the provisions of the Regulations governing general eye services, the persons appointed to hear the appeal shall include, unless such inclusion appears to the Ministry to be impracticable, an ophthalmic medical practitioner appointed by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of ophthalmic medical practitioners.

(*e*) Where one of the parties to an appeal is an optician and the decision of the Board involves a finding that he has failed to comply with the provisions of the Regulations governing general eye services, the persons appointed to hear the appeal shall include an optician appointed by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of opticians.

(6) Breaches of the terms of service by a medical practitioner to which paragraph (5) relates are failure to render to a patient all proper and necessary treatment, failure to visit or treat a patient whose condition so requires, failure to order or supply any necessary drugs or appliances for the use of a patient or failure to discharge the obligations imposed on a medical practitioner to give a patient the requisite assistance to enable him to obtain any treatment which is not within the scope of the practitioner's obligations under the terms of service.

(7) (*a*) A party to an appeal when an oral hearing takes place shall be entitled to appear and be heard in person, or by counsel or solicitor, or by any officer or member of any organisation of which he is a member or by any member of his family, or by any other person.

(*b*) The Board or any other body being a party to an appeal shall be entitled to appear by a member or by its secretary or other officer duly appointed for the purpose or by counsel or solicitor.

(8) A party to an appeal shall not, except with the consent of the Ministry or, in the case of an oral hearing, of the persons before whom the hearing takes place, be entitled to rely upon any facts or conditions which do not appear to the Ministry or to the persons holding the enquiry to have been adduced before the Services Committee in the course of the proceedings in respect of which the appeal is brought:

Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Ministry or to the persons holding the inquiry of any new facts upon which the party intends to rely.

(9) The Board may, with the consent of the Ministry, make such contribution as it thinks fit and if directed by the Ministry shall make such contribution as the Ministry may determine towards the cost of the appeal incurred by the complainant or by the practitioner, chemist or optician.

Provisions of Ninth Schedule to the Act to apply

10. The provisions as to inquiries contained in the Ninth Schedule to the Act shall mutatis mutandis apply to any inquiry held by persons appointed by the Ministry under Regulation 9.

Procedure on withholding money

11.—(1) If the Board is satisfied after considering any report of the Tribunal and in particular any facts which the Tribunal have found to be established that a practitioner, chemist or optician has failed or neglected to comply with the terms of service applicable to him, it may proceed to take action as provided in Regulation 6 as if the report of the Tribunal were a report from the Services Committee, and the provisions of Regulation 7(1) shall apply as if the report of the Tribunal were therein substituted for the Services Committee's report.

(2) Where the Board decides to recover, in accordance with these Regulations, an amount from a practitioner, chemist or optician or where on appeal it is so directed by the Ministry or by the persons appointed to hear and determine the appeal, it shall recover the amount either by deduction from the remuneration of the practitioner, chemist or optician or otherwise and such sum shall be a debt owing by the practitioner, chemist or optician to the Board:

Provided that the Board shall notify the practitioner, chemist or optician concerned that he may within one month of the date of such notification, make representations to the Ministry as to his circumstances or other matters with a view to having such amount reduced.

(3) The Board shall not make any deduction from the remuneration of a practitioner, chemist or optician under this Regulation pending the expiration of the period within which the practitioner, chemist or optician may make representations to the Ministry.

(4) If a practitioner, chemist or optician decides to make oral representations to the Ministry, the Ministry shall appoint persons not exceeding three in number to hear the case. The Board, or the Local Medical, Ophthalmic Medical, Pharmaceutical, Dental or Ophthalmic Optical Committee, as may be appropriate, shall be entitled to be represented at such hearing and to take part in the proceedings.

(5) The persons appointed to hear the oral representations of a practitioner, chemist or optician under this Regulation shall include a practitioner, chemist or optician appointed for the purpose by the Ministry after consultation with such organisation as may be recognised by the Minister as representative of medical practitioners, ophthalmic medical practitioners, dental practitioners, chemists or opticians, as the case may be.

(6) After consideration of the report of the persons appointed to hear the oral representations of a practitioner, chemist or optician the Ministry shall direct the Board to recover the amount referred to in paragraph (2) or such lesser amount as the Ministry may think fit.

Central Medical Committee

12. Each Local Medical Committee shall appoint two of its members to be members of a Committee to be known as the Central Medical Committee and shall notify the Ministry of such appointment:

Provided that in the case of the Local Medical Committee for the County Borough of Belfast the number of members to be appointed under this Regulation shall be four.

Central Ophthalmic Medical Committee

13. The Local Ophthalmic Medical Committee shall appoint four of its members to be members of a Committee to be known as the Central Ophthalmic Medical Committee and shall notify the Ministry of such appointment.

Central Dental Committee

14. The Local Dental Committee shall appoint twelve of its members to be members of a Committee to be known as the Central Dental Committee and shall notify the Ministry of such appointment.

Central Ophthalmic Optical Committee

15. The Local Ophthalmic Optical Committee shall appoint six ophthalmic opticians to be members of a Committee to be known as the Central Ophthalmic Optical Committee and shall notify the Ministry of such appointment.

Investigation of excessive prescribing

16.—(1) Where it appears to the Board or the Ministry after an investigation of the orders for drugs and appliances given by a medical practitioner to persons on his list and of the accounts furnished by the practitioner for drugs and appliances supplied to those persons, that there is a prima facie case for considering that by reason of the character or quantity of the drugs or appliances so ordered or supplied the cost is in excess of what was reasonably necessary for the proper treatment of those persons, the matter may be referred to the Central Medical Committee for its consideration.

(2) Where a case has been referred to the Central Medical Committee under the preceding paragraph, the Central Medical Committee shall send to the practitioner concerned a statement indicating the matters on which an explanation is required and shall give him a reasonable opportunity of appearing before and being heard by it, or, if he thinks fit, of submitting to it any statement in writing, and representatives of the Board or the Ministry shall be entitled in the case of a hearing to be heard by the Central Medical Committee.

(3) After considering the case the Central Medical Committee shall decide whether any cost has been incurred in excess of what may reasonably be necessary by reason of the character or quantity of the drugs or appliances ordered or supplied by the practitioner as aforesaid and, if so, what is the amount of the excess cost.

(4) The Central Medical Committee shall inform the Board of its decision, and, if such decision is that excessive cost has been incurred, of its estimation of the amount of such excess and of its recommendation as to the action to be taken.

(5) The Board shall consider the decision of the Central Medical Committee and shall determine whether or not to recover from the practitioner the amount of any excess cost estimated by the Central Medical Committee to have been incurred, or a part thereof, and shall inform the practitioner of its determination and of his right of appeal in accordance with paragraph (6). The Board, after such consideration as aforesaid, may recover such amount as aforesaid from the practitioner by deduction from his remuneration or otherwise, but no such deduction shall be made pending the expiration of the period within which he may give notice of appeal to the Ministry:

Provided that where the matter has been dealt with under paragraph (6) or (7) the sum to be recovered shall be such amount as the persons appointed to hear the matter may estimate to be the amount of the excess cost incurred or such part thereof as they may determine.

(6) The practitioner shall be entitled to appeal against the decision of the Central Medical Committee by sending to the Ministry notice of appeal within one month of the date on which notice of the Board's determination was received. In the event of an appeal being made the Ministry shall appoint persons not exceeding three in number and not being officers of the Ministry, of whom at least one shall be a medical practitioner, to hear and determine the appeal and the provisions of Regulation 9(1), (2), (4), (7) and (8) shall apply to any such appeal as if the persons so appointed were therein mentioned in place of the Ministry, and Regulation 9(9) shall also apply as if the persons so appointed were therein mentioned in place of the Ministry where it occurs for the second and third times in the said Regulation.

(7) If the Ministry is dissatisfied with the decision of the Central Medical Committee in any case referred to the Central Committee under paragraph (1) it may appoint persons to hear and determine the matter in the manner provided in paragraph (6) and the provisions of that paragraph including those relating to the persons to be appointed shall apply accordingly.

Investigation of certification

17.—(1) Where it appears to the Ministry, after an investigation of the medical certificates issued under and for the purposes of the National Insurance Act (Northern Ireland) 1966(**g**), by a medical practitioner to persons for whose treatment he is responsible under the terms of service applicable to him, that there is a prima facie case for considering that the practitioner has failed to exercise reasonable care in the issue of such certificates, the Ministry may refer the matter for consideration to the Central Medical Committee.

(2) Any reference to the Central Medical Committee under the last preceding paragraph shall be accompanied by a statement indicating the matters on which it appears to the Ministry that an explanation is required.

(3) (*a*) The Central Medical Committee shall send to the practitioner concerned a copy of the said statement and shall give him reasonable opportunity of submitting to it a statement in writing and of appearing before and being heard by it.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Ministry by the Central Medical Committee for its observations and representatives of the Ministry shall be entitled, in the case of a hearing, to attend and be heard by the Central Medical Committee.

(4) (*a*) After considering the case the Central Medical Committee shall draw up a report of its findings on the question whether there has been a failure on the part of the practitioner to exercise reasonable care in certification, and, if so, what is the extent and gravity of the failure, together with a recommendation as to the action, if any, which should be taken by the Ministry.

(*b*) The Central Medical Committee shall forward the report to the Ministry and furnish the practitioner with a copy of the report and recommendation and at the same time inform the practitioner of his right of appeal to the Ministry.

(5) (*a*) The practitioner shall be entitled to appeal against any finding or recommendation of the Central Medical Committee contained in the report by sending to the Ministry notice of appeal within one month of the date on which a copy of the report was received by him and the provisions of Regulation 16(6) relating to the determination of appeals (with "Central Medical Committee" substituted for "Board") shall apply accordingly.

(*b*) If the Ministry is dissatisfied with any finding of the Central Medical Committee it may appoint persons to hear and determine the matter in the manner provided in Regulation 16(6) and the provisions of that Regulation including those relating to the persons to be appointed shall apply accordingly.

(**g**) 1966, c. 6 (N.I.).

(6) After consideration of the finding and recommendation of the Central Medical Committee where the matter has not been appealed or referred under the preceding paragraph, the Ministry may, if it is satisfied that there has been a failure on the part of the practitioner to exercise reasonable care in certification, direct the Board to withhold such amount as it thinks fit from the remuneration of the practitioner. Where the matter has been so appealed or referred, the Board shall withhold from the remuneration of the practitioner such sum, if any, as may be determined by the persons appointed to hear the matter.

(7) The Ministry shall not direct the Board to withhold any amount from the remuneration of the practitioner pending the expiration of the period within which the practitioner may appeal to the Ministry.

Investigation of record keeping

18.—(1) Where it appears to the Board after an examination by the medical adviser or by the dental officer of any record cards held by a medical practitioner or a dental practitioner that there is a prima facie case for considering that the medical practitioner has failed to carry out his obligations under paragraph 12 of the terms of service, so far as such obligations involve the recording of clinical data regarding his patients, or that the dental practitioner has failed to carry out his obligations under paragraph 5 of the terms of service, the Board may refer the matter for consideration by the Central Medical or Central Dental Committee, whichever is appropriate.

(2) Any such reference to a Committee as aforesaid shall be accompanied by a statement of the grounds for considering that such obligations have not been fulfilled.

(3) (*a*) The Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to it a statement in writing and of appearing before and being heard by it.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Board by the Committee for their observations and representatives of the Board shall be entitled, in the case of a hearing, to attend and be heard by that Committee.

(4) If so required by notice in writing signed by the chairman of the Committee, the practitioner shall—

(*a*) produce at the hearing all record cards held by him or such of the record cards as may be specified in the notice;

(*b*) give to any members of the Committee specified in the notice, access at all reasonable times to the practitioner's surgery or other place where the record cards are kept, for the purpose of inspection of such record cards and furnish such persons with any such record cards and with any necessary information with regard thereto as they may require.

(5) After considering the case, the Committee shall report to the Board whether there has been a failure on the part of the practitioner to carry out his said obligations and, if so, the extent and gravity of such failure and shall make a recommendation as to the action, if any, which should be taken by the Board. A copy of such report shall be sent by the Committee to the practitioner and to the Ministry.

(6) The Board after consideration of the report and recommendation of the Committee shall communicate them to the practitioner together with the Board's decision as to the action (if any) to be taken and shall inform him of his right of appeal in accordance with paragraph (7). The Board, after such consideration as aforesaid, may withhold such sums as it thinks fit from the remuneration of the practitioner but no deduction shall be made pending the expiration of the period within which he may give notice of appeal to the Ministry:

Provided that, where the matter has been dealt with under paragraph 7(*a*) or (*b*) the sum to be withheld shall be such sum as the persons appointed to hear the matter may determine.

(7) (*a*) The practitioner shall be entitled to appeal against any finding of the Committee contained in the report by sending to the Ministry notice of appeal within one month of the date on which a copy of the report was received by him and the provisions of Regulation 16(6) relating to the determination of appeals (with the substitution of "Central Medical or Central Dental Committee" as the case may be for the "Board") shall apply accordingly: Provided that if the appellant is a dental practitioner. a reference to a dental practitioner shall be substituted for the reference to a medical practitioner.

(*b*) If the Ministry is dissatisfied with the finding of the Committee it may appoint persons to hear and determine the matter in the manner provided in Regulation 16(6) as modified by the preceding sub-paragraph. and those provisions, including those relating to the persons to be appointed, shall apply accordingly.

(8) In this regulation the expression "record cards" means—

(*a*) in the case of a medical practitioner, the card on which he is required to keep records of the illnesses of his patients and of his treatment of them under sub-paragraph (12) of paragraph 7 of the terms of service, and

(*b*) in the case of a dental practitioner, the records which under paragraph 5 of the terms of service he is required to keep of the clinical conditions present in the mouth of the person for whom he is providing general dental services and of the treatment provided by him.

Decisions as to treatment for which fees may be charged

19.—(1) If any question arises, either in the course of an investigation by the Services Committee or otherwise, as to whether any treatment given by a medical practitioner to a patient is treatment for which he may demand or accept a fee from that patient (unless it arises in relation to sub-paragraph (1)(*a*), (*f*), or (*g*) of paragraph 16 of the terms of service) the question shall be referred for determination to the Central Medical Committee. If the Board are dissatisfied with the determination of the Central Medical Committee, the matter shall be submitted to referees appointed under these Regulations for decision in accordance with the rules set out in Schedule 2; and the decision of the referees, given after hearing such parties and taking such evidence as they think just, shall be final.

(2) For the purpose of giving effect to this Regulation the Ministry shall, upon any such disagreement arising, nominate as referees two medical practitioners not being officers of the Ministry (who shall be selected from any panel of practitioners set up by the Ministry for the purpose or, if no such panel exists, from among practitioners in actual practice) and a medical officer of the Ministry.

(3) The referees may decide any question coming before them by a majority but, subject as aforesaid their procedure shall be such as they may from time to time determine.

(4) If on any question referred to the Central Medical Committee under this Regulation the Central Medical Committee and the Board are in agreement, the Board shall report the matter to the Ministry and the Ministry may, if it thinks fit, refer the question for decision to referees in the manner provided in this Regulation and the foregoing provisions of this Regulation shall apply accordingly.

Determination of question whether a substance was a drug

20.—(1) Any question whether a substance supplied by a medical practitioner or chemist on the prescription of a medical practitioner was a drug forming part of pharmaceutical services provided under the Act, shall, if the practitioner concerned so desires in accordance with Regulation 21 and may, in any other case in which the Board or the Ministry think fit, be referred to the Central Medical Committee, and the Board or the Ministry, as the case may be, shall inform the Local Pharmaceutical Committee that the question has been so referred.

(2) The Central Medical Committee shall send to the practitioner concerned a statement indicating the nature of the question referred to it under this Regulation and shall give him reasonable opportunity of appearing before and being heard by it or, if he thinks fit, of submitting to it any statement in writing.

The Central Medical Committee shall further consider any representations made to it by the Board or the Ministry, and, if the practitioner appears before and is heard by it, shall afford an opportunity to representatives of the Board and the Ministry of appearing before and being heard by it.

(3) The Central Medical Committee shall inform the practitioner, the Board and the Ministry of its finding on the question referred to it.

(4) If the practitioner, or the Board, are dissatisfied with the finding of the Central Medical Committee and inform the Ministry accordingly within one month of the date on which the notice of the finding was received the question shall be referred for decision to referees nominated by the Ministry under this Regulation. If the Ministry is dissatisfied with the finding of the Central Medical Committee it may, if it thinks fit, also refer the question for decision to referees so nominated.

(5) For the purpose of obtaining a decision under paragraph (4) the Ministry shall nominate as referees persons not exceeding three in number and not being officers of the Ministry of whom at least one shall be a medical practitioner. The referees may decide any question coming before them by a majority, but, subject as aforesaid, their procedure shall be such as they may determine.

Recovery of cost of substance held not to be a drug

21.—(1) If it appears to the Board that any substance supplied to a person under the General Service Regulations was not a drug forming part of pharmaceutical services provided under the Act, the Board shall recover from the practitioner who, or whose deputy or assistant, prescribed the same, by deduction from his remuneration or otherwise, an amount calculated in the manner provided in paragraph (2):

Provided that before recovering any such amount the Board shall, unless it has already been decided in accordance with the last foregoing Regulation that the substance supplied in that case was not such a drug, bring the question to the practitioner's notice in writing and inquire whether he desires it to be referred for decision under that Regulation; and if the practitioner within one week of the receipt of such notice informs the Board that he desires the question to be so referred, the Board shall refer it to the Central Medical Committee and the provisions of Regulation 20 shall apply accordingly.

(2) For the purpose of paragraph (1) the amount to be recovered in respect of the supply of any substance shall be a sum calculated in the manner set forth in the Drug Tariff:

Provided that if any substance which was not a drug was an ingredient in a preparation of which other ingredients were drugs, the amount to be recovered shall be the price of that substance calculated in the manner set forth in the Drug Tariff, together with half the amount of the dispensing fee payable in respect of the supply of the preparation.

Investigation of excessive dental treatment

22.—(1) Where it appears to the Board or the Ministry after an investigation of a number of the Dental Estimate forms submitted by a dental practitioner to the Dental Estimates Committee that, by reason of the character and volume of the treatment (not being treatment specified in Column B of Schedule 2 to the General Dental Regulations) for which the practitioner has claimed payment, there is a prima facie case for considering that the practitioner has regularly provided excessive dental treatment, the matter may be referred for consideration to the Central Dental Committee.

For the purpose of this regulation "excessive dental treatment" means treatment which is in excess of what was reasonably necessary to secure the dental fitness of the persons concerned, or which involved the Board in cost in excess of what was reasonably necessary to secure the proper treatment of those persons.

(2) Where a case has been referred to the Central Dental Committee under the preceding paragraph, the Central Dental Committee shall send to the practitioner concerned a statement indicating the matters on which an explanation is required and shall give him reasonable opportunity of appearing before and being heard by it, or, if he thinks fit, of submitting to it any statement in writing; and representatives of the Board or the Ministry shall be entitled, in the event of a hearing, to attend and be heard by the Central Dental Committee.

(3) After considering the case the Central Dental Committee shall decide whether the practitioner has in its opinion regularly provided excessive dental treatment, and shall inform the Board of its decision.

(4) The Board shall send to the Ministry and the practitioner a copy of the Central Dental Committee's decision and shall inform the practitioner of his right of appeal in accordance with paragraph (5).

(5) The practitioner shall be entitled to appeal against the decision of the Central Dental Committee by sending to the Ministry notice of appeal within one month of the date on which notice of the decision was received. The Ministry shall appoint as referees persons not exceeding three in number and not being officers of the Ministry of whom at least one shall be a dental practitioner, to hear and determine the appeal. They shall have power to determine the appeal by a majority.

(6) If the Ministry is dissatisfied with the decision of the Central Dental Committee in any case referred to it under paragraph (1), it shall appoint as referees persons to hear and determine the matter in the manner provided in the last preceding paragraph; and the provisions of that paragraph, including those relating to the persons to be appointed, shall apply accordingly.

(7) Where the Central Dental Committee or the referees, as the case may be, decide that the practitioner has regularly provided excessive dental treatment, the practitioner shall be required by the Ministry to submit to the Dental Estimates Committee of the Board for prior approval estimates in respect of all or any specific treatment other than examinations or emergency treatment for a period of twelve months from such date as the Ministry may notify to him (not being earlier than one month from the date on which notice of the decision is received).

(8) A practitioner who is subject to the requirement to submit estimates for prior approval under this regulation may, at any time six months after the receipt of the notification of the Ministry under paragraph (7), apply to the Ministry for a direction that the requirement should be terminated before the period of twelve months has elapsed. Any such application shall state the grounds on which it is made. The Ministry shall request the comments of the Board and the Central Dental Committee on the application and the observations of the practitioner on such comments, if any, before giving such decision as it thinks fit.

Investigation of excessive prescribing of glasses

23.—(1) Where it appears to the Board or the Ministry, on an investigation of the forms ESC2 in Part IV of the First Schedule to the Supplementary Eye Services Regulations completed by an ophthalmic medical practitioner or an ophthalmic optician after testing the sight of applicants for general eye services, that there is a prima facie case for considering that, by reason of the number of glasses and the type of lenses prescribed in relation to the number of sight tests undertaken, and to the degree of refractive error present, the cost incurred by the Board has been materially in excess of what was reasonably necessary for the purpose of affording proper services to the persons concerned, the matter shall be further considered by the Central Ophthalmic Medical or the Central Ophthalmic Optical Committee, whichever is appropriate, as hereinafter provided.

(2) Before considering the case the Committee shall furnish the practitioner or optician concerned with a statement indicating the matters on which an explanation is required and shall afford him a reasonable opportunity of either appearing before the Committee together with some other person, not being a person appearing in the capacity of counsel, solicitor or other paid advocate and being heard or, if he thinks fit, of submitting to it a statement in writing, and, in the event of a hearing, representatives of the Ministry shall be entitled to attend and be heard by the Committee.

(3) After considering the case the Committee shall decide whether the cost incurred by reason of the number of glasses and the type of lenses prescribed by the practitioner or optician, as the case may be, was materially in excess of what was reasonably necessary for the purpose of affording proper services to the persons concerned, and if so, what is the amount of any excess cost which has been incurred by the Board.

(4) Where the Committee has decided that an excessive cost has been so incurred it shall inform the Board of its decision and may add a statement of any considerations to which, in its opinion, the Board should have regard in making any recommendation or decision with reference to the withholding of money from the practitioner or optician as hereinafter provided for.

(5) The Board shall send to the Ministry and the parties to an investigation a copy of the Committee's report and of its decision and shall inform the practitioner or optician concerned of his right of appeal to the Ministry under paragraph (6).

(6) The practitioner or optician shall be entitled to appeal against the decision of the Committee by sending to the Ministry notice of appeal within one month of the date on which notice of the Committee's decision was received. The Ministry shall appoint as referees persons not exceeding three in number and not being officers of the Ministry to hear and determine the appeal. They shall have power to determine the appeal by a majority. In the case of an appeal by a practitioner at least one of such persons shall be a medical practitioner, and in the case of an appeal by an optician at least one of such persons shall be an ophthalmic optician.

(7) If the Ministry is dissatisfied with the decision of the Committee, it may appoint persons to hear and determine the matter in the manner provided in the last preceding paragraph and the provisions of that paragraph including those relating to the persons to be appointed shall apply accordingly.

(8) After consideration of the decision of the Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last foregoing paragraph, after consideration of the decision of the persons determining the appeal or matter, the Board shall, if such decision is that an excessive cost has been incurred, make a recommendation to the Ministry with regard to the withholding of money from the practitioner or optician as the case may be. The Ministry may thereafter direct the Board to withhold such sums as it thinks fit and the provisions of Regulation 11 including the right of the practitioner or optician to make representations to the Ministry shall apply.

Information, etc., required by the Ministry

24. The Board shall send to the Ministry such information and documents and shall give to the Ministry such facilities as the Ministry considers necessary for the performance of its functions under these Regulations.

Revocation

25. The Health Services (Services Committee) Regulations (Northern Ireland) 1948 to 1955(h) are hereby revoked.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 20th day of August 1971.

(L.S.) *F. A. Elliott,*
Assistant Secretary.

(h) S.R. & O. (N.I.) 1948, No. 164 and S.R. & O. (N.I.) 1955, No. 157.

SCHEDULE 1

Rules of Procedure under Regulation 5

Where under the provisions of the Regulations any question or matter is required to be investigated by the Services Committee, the following procedure shall be adopted:

(*a*) If in the opinion of the chairman, the statement made by the complainant discloses no prima facie ground of complaint or is frivolous or vexatious, the Secretary of the Board shall so inform the complainant and of the fact that he may within seven days submit a further statement. If no further statement is submitted by the complainant within that period or if the statement so submitted still does not in the opinion of the chairman disclose a prima facie case or is frivolous or vexatious, he shall report accordingly to the Board.

(*b*) Where it is intended to have a hearing of the case the Secretary of the Board shall as soon as is practicable send to the chairman of the Services Committee and to the practitioner, or chemist or optician concerned a copy of the complainant's statement and of any ensuing correspondence on the matter and the practitioner or chemist or optician shall be entitled to reply thereto.

(*c*) Except in cases which have been dealt with in accordance with sub-paragraph (*a*) the Secretary of the Board shall give to both parties and to the Secretary of the Local Medical, Ophthalmic Medical, Dental, Pharmaceutical or Ophthalmic Optical Committee as the case may be not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) The chairman may, upon the application of either party, postpone the hearing if he is satisfied that the attendance of the party or any witness on the date fixed for the hearing is not reasonably practicable or if for any other reason he thinks fit.

(*e*) The Secretary shall seven clear days before the hearing supply to each member of the Services Committee copies of the statement and of the reply, if any, thereto, and of any further correspondence relating to the matter which has taken place between the secretary and either party.

(*f*) Both parties shall be entitled to be present at the hearing and to give and call such evidence as the Services Committee may think relevant to the matters at issue, and either party may put questions relevant to the matter in dispute to the other party or to any witness called by such party. Subject as aforesaid, the procedure at the hearing shall be such as the Services Committee may determine.

(*g*) If either party fails to appear at the hearing, and the Services Committee is satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the Services Committee think fit, it may adjourn the hearing.

(*h*) If in the course of a hearing, the complainant introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement sent to the respondent, the chairman may admit or exclude such issue as he thinks fit, but if the issue is admitted the hearing will be adjourned if the respondent desires an opportunity of producing further evidence, and desires an adjournment for that purpose.

(*i*) The chairman or the deputy chairman together with one other lay member and one professional member shall form a quorum. If the Services Committee is reconstituted under Regulation 3(5) the chairman or the deputy chairman together with one other lay member and one member of each of the professions involved shall form a quorum.

SCHEDULE 2

Rules of Procedure under Regulation 19

1. If the Board are dissatisfied with any determination of the Central Medical Committee made under Regulation 19—

(1) The Board shall prepare and submit to the Central Medical Committee a written statement of the facts in connection with which the question has arisen and of the decision given by the Board and the grounds on which the decision is based.

(2) The Central Medical Committee shall, as soon as may be after receipt of the said statement, send to the Board a written statement of the decision given by the Central Medical Committee and the grounds on which the decision is based and shall inform the Board whether it concurs in the statement of facts prepared by the Board and, if not, in what respects it does not concur in that statement.

(3) The Board shall send the statements prepared by the Board and the Central Medical Committee to the Ministry and it may, if it thinks fit, require both or either of the said bodies to give to it further particulars either with regard to the facts of the case or the decision or the grounds of the decision.

2. Where the Ministry thinks fit to refer for decision to referees any question on which the Board and the Central Medical Committee are in agreement, the Ministry may require either or both of the said bodies to give to it written statements of the facts in connection with which the question has arisen and of their decision and the grounds on which the decision is based and the Ministry shall inform the body or bodies giving such statements whether it concurs in the statement of facts contained therein and, if not in what respect it does not concur therein and shall further inform the body or bodies of its grounds for disagreeing with their decision.

3. The Ministry shall send copies of all such documents to each of the referees appointed by it for the purpose of deciding the question.

4. If the referees on consideration of such documents are of the opinion that the question referred to them is governed by a previous determination of referees under Regulation 19 they may dispense with a hearing and determine the case summarily.

5. Except in a case in which the referees dispense with a hearing in accordance with the last foregoing rule the Ministry shall fix the time and place of the hearing and shall give not less than twenty-one days' notice thereof to the Board, the Central Medical Committee and the practitioner affected.

6. The Ministry and each of the parties upon whom notice has been served shall be entitled to appear at the hearing either personally, or by a representative duly authorised in that behalf, or by counsel or solicitor and the Ministry and the practitioner affected may produce such evidence as in the opinion of the referees may be relevant to the matters at issue.

7. The referees shall, as soon as may be after the hearing or after determining a case summarily, report to the Ministry and to the practitioner affected the decision at which they have arrived.

EXPLANATORY NOTE

(This note is not part of the Regulations but is intended to indicate their general purport.)

The Regulations provide for the arrangements to be made for dealing with complaints, disputes, etc., in connection with the services to be provided under Part II of the Health Services Act (Northern Ireland) 1971 by medical practitioners, ophthalmic medical practitioners, dental practitioners, chemists and opticians.

They consolidate and amend the Health Services (Services Committee) Regulations (Northern Ireland) 1948 to 1955.