STATUTORY INSTRUMENTS

1984 No. 1578

PUBLIC HEALTH, ENGLAND AND WALES

The Nursing Homes and Mental Nursing Homes Regulations 1984

Made - - - -	*5th October* 1984
Laid before Parliament	*19th October* 1984
Coming into Operation	*1st January* 1985

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 21(4), 23(3)(*b*), 26, 27, 29(3)(*a*), 35(3) and 56(4) of, and paragraph 4(1)(*a*) of Schedule 2 to, the Registered Homes Act 1984(**a**) and all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Nursing Homes and Mental Nursing Homes Regulations 1984 and shall come into operation on 1st January 1985.

Interpretation

2.— (1) In these regulations unless the context otherwise requires—

"the Act" means the Registered Homes Act 1984;

"adequate" means sufficient and suitable;

"application" means an application for the registration of a person in respect of a home under Part II of the Act and "applicant" shall be construed accordingly;

"child" means any person under the age of eighteen and any person who has attained that age and is the subject of a care order; within the meaning of the Children and Young Persons Act 1969(**b**);

"class 3B laser product" and "class 4 laser product" have the meanings assigned to them in Part 1 of British Standard 4803:83 (Radiation safety of laser products and systems) as effective on 31st March 1983;

"dentist" means a person registered in the dentists register under the Dentists Act 1984(**c**);

(**a**) 1984 c.23.
(**b**) 1969 c.54.
(**c**) 1984 c.24.

"fire authority", in relation to a home, means the authority discharging, in the area in which the home is situated, the function of fire authority under the Fire Services Act 1947(**a**);

"health authority", in relation to a home, means the District Health Authority, within the meaning of the National Health Service Act 1977(**b**), for the district in which the home is situated;

"home" means a nursing home or mental nursing home;

"medical practitioner" means a fully registered person within the meaning of section 55 of the Medical Act 1983(**c**);

"patient" means a patient in a home;

"person authorised" means a person authorised by the Secretary of State to exercise powers under regulation 11;

"person registered" means a person registered in respect of a home under Part II of the Act;

"record" means any record kept or retained in pursuance of regulation 7 including any book, card, form, tape, computerised record, film or notes;

"specially controlled technique" means a technique specified in regulation 3.

(2) Unless the context otherwise requires, any reference in these regulations to a numbered regulation or a numbered Schedule is a reference to the regulation in or Schedule to these regulations which bears that number and any reference in a regulation or in a Schedule to a numbered paragraph is a reference to the paragraph which bears that number in that regulation or Schedule.

(3) The provisions contained in section 54 of the Act (service of documents) shall apply for the purposes of these regulations as though any reference in that section to a notice or other document under, or required to be served under, the Act were a reference to a notice under, or required to be given or served under, these regulations.

Specially controlled techniques

3. Any technique of medicine or surgery (including cosmetic surgery) involving the use of a class 3B laser product or a class 4 laser product (being a technique of medicine or surgery as to which the Secretary of State is satisfied that its use may create a hazard for persons treated by means of it or for the staff of any premises where the technique is used) is hereby specified as subject to control for the purposes of the Act.

Registration

4.— (1) An application shall be made to the Secretary of State in writing and sent or delivered to the health authority and shall be accompanied by a fee provided for in Schedule 1.

(**a**) 1947 c.41.
(**b**) 1977 c.49; *see* section 1(5) of the Health Services Act 1980 (c.53).
(**c**) 1983 c.54.

(2) In making an application an applicant shall furnish the particulars specified in Schedule 2 and such other information, including details of any comments made by the fire authority in relation to the home, as the Secretary of State may reasonably require.

Annual fees

5. An annual fee of an amount calculated in accordance with Schedule 3 shall be paid by a person registered, within the appropriate time specified in that Schedule, for each home in respect of which he is registered.

Variation of conditions of registration

6.— (1) The Secretary of State may vary any condition for the time being in force in respect of a home by giving notice in writing to that effect to the person registered.

(2) A notice given under paragraph (1) shall specify a date, which shall be reasonable in the circumstances, on which the variation specified in the notice shall have effect.

(3) Where it is a condition that the number of persons kept at any one time in the home shall not exceed a specified number ("the original maximum") and the Secretary of State varies that condition by specifying a lower number, he shall specify that the original maximum shall continue to apply so long as all the patients in the home are patients who were resident there at the date on which notice of the variation was given under paragraph (1).

Records

7.— (1) The person registered shall keep a record in the form of a register of all patients, which register shall, in respect of each patient, and as from the date when the patient enters the home, include the particulars specified in Part I of Schedule 4, and, in the case of a maternity home, the additional particulars specified in Part II of Schedule 4.

(2) The person registered shall keep a separate record in the form of a register of—

(a) all surgical operations performed in the home which register shall include the name of the medical practitioner or dentist who performed the operation and the name of the anaesthetist in attendance;

(b) where the home is a nursing home, any occasion on which a specially controlled technique is used, the nature of that technique, the name of the person using it and, where that person is not a medical practitioner or dentist, the name of the medical practitioner or dentist in accordance with whose directions the technique was used.

(3) Any record in the form of a register kept under paragraph (1) or (2) shall be retained for a period of not less than one year beginning with the date on which the last entry was made in the register.

(4) The person registered shall keep a case record in the home in respect of each patient which shall include the following particulars:—

(a) an adequate daily statement of the patient's health and condition; and

(b) details of any investigations made, surgical operations carried out and treatment given.

(5) In the case of a maternity home, in addition to the register and case records kept under paragraphs (1), (2) and (4), the person registered shall keep a case record of each child born to a patient in the home which shall include the particulars specified in Part III of Schedule 4.

(6) The case records kept under paragraphs (4) and (5) shall be retained for a period of not less than one year beginning with the date on which the patient to whom, or to whose child, they relate ceases to be a patient in the home.

(7) The person registered shall keep a record of the staff employed at the home which shall include the name, date of birth and details of position and dates of employment at the home of each member of staff and, in respect of the nursing staff, details of their qualifications.

(8) The person registered shall keep a record of—

(a) all fire practices which take place at the home;

(b) all fire alarm tests carried out at the home together with the result of any such test and the action taken to remedy defects; and

(c) the procedure to be followed in the event of fire.

(9) The person registered shall keep a record of maintenance carried out on medical, surgical and nursing equipment in the home.

(10) Any records which are required to be made under the Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983(**a**) and which relate to the detention or treatment of a patient in a mental nursing home shall be kept for a period of not less than five years beginning with the date on which the person to whom they relate ceases to be a patient in that home.

Notices in respect of deaths

8.— (1) If a patient, or a child born to a patient, dies in the home, the person registered shall give notice in writing of the death to the health authority not later than twenty four hours after it occurs.

(2) For the purposes of paragraph (1), no account shall be taken of any part of a period of twenty four hours which falls on a Saturday, Sunday, Christmas Day, Good Friday or on a bank holiday in England and Wales within the meaning of the Banking and Financial Dealings Act 1971(**b**).

(**a**) S.I. 1983/893.
(**b**) 1971 c.80.

Absence of person in charge from the home

9.— (1) The person registered shall give notice to the health authority in writing of any period of more than four weeks during which he or, if he is not in charge of the home, the person who is in charge of it, proposes to be absent from the home.

(2) The notice referred to in paragraph (1) shall be given not later than one month before the beginning of the proposed absence except—

(a) where the health authority agrees to a shorter period, in which case notice shall be given not later than the beginning of that period, or

(b) in an emergency, in which case the notice shall be given not later than one week after the start of the absence unless it is impracticable to do so, in which case it shall be given as soon as possible thereafter.

(3) The person registered or the person in charge as the case may be shall, within one week from the date of his return to the home after an absence of which notice was required to be given in accordance with paragraph (1), give notice to the health authority in writing that he has returned.

(4) The notice referred to in paragraph (1) shall contain the following information—

(a) the length or expected length of the proposed absence from the home;

(b) the arrangements which the person registered will make or has made for the running of the home during the proposed absence, including the name, address and qualifications of the person in charge of the home during that absence.

Inspection of nursing homes

10.— (1) Subject to the following provisions of this regulation any person authorised, on producing (if asked to do so) a duly authenticated document showing that he is so authorised, may enter and inspect any premises which are used, or which he reasonably believes to be used, as a nursing home, and in the course of such inspection may require the production of records.

(2) Subject to paragraph (3), a person authorised may require the person registered to furnish such information in relation to the nursing home as may reasonably be required for the purposes of inspection.

(3) Nothing in this regulation authorises any person other than a medical practitioner in the service of the Crown or of a health authority to inspect any clinical record relating to a patient in a home.

Frequency of inspection of homes

11. Inspection of a home pursuant to section 35 of the Act or to regulation 10 may be made on such occasions and at such intervals as the Secretary of State may decide but he shall cause every home to be inspected not less than twice in every period of twelve months.

Provision of facilities and services

12.— (1) The person registered shall, having regard to the size of the home and the number, age, sex and condition of the patients therein—

(a) provide adequate professional, technical, ancillary and other staff;

(b) provide for each patient in the home adequate accommodation and space, including, where appropriate, day-room facilities;

(c) provide adequate furniture, bedding, curtains and where necessary adequate screens and floor covering in rooms occupied or used by patients;

(d) provide and maintain adequate medical, surgical and nursing equipment and adequate treatment facilities;

(e) provide for the use of patients adequate wash basins and baths supplying hot and cold water and adequate water closets and sluicing facilities;

(f) provide adequate light, heating and ventilation in all parts of the home occupied or used by patients;

(g) keep all parts of the home occupied or used by patients in good structural repair, clean and reasonably decorated;

(h) take adequate precautions against the risk of fire, including the provision of adequate means of escape in the event of fire and make adequate arrangements for detecting, containing and extinguishing fires, for the giving of warnings and for the evacuation of all persons in the home in the event of fire and for the maintenance of fire fighting equipment;

(i) make adequate arrangements to secure by means of fire drills and practices that the staff in the home and, so far as practicable, patients know the procedure to be followed in the case of fire including the procedure for saving life;

(j) provide adequate kitchen equipment, crockery and cutlery and adequate facilities for the preparation and storage of food;

(k) supply adequate food for every patient;

(l) arrange adequate laundering facilities;

(m) make adequate arrangements for the disposal of swabs, soiled dressings, instruments and similar substances and materials;

(n) make adequate arrangements for patients in the home where necessary to receive medical and dental services, whether under Part II of the National Health Service Act 1977(**a**) or otherwise;

(o) make adequate arrangements for the recording, safe keeping, handling and disposal of drugs;

(p) provide adequate arrangements for the prevention of infection, toxic conditions, or spread of infection at the home;

(q) make adequate arrangements where appropriate for the training or occupation and recreation of patients and play and education facilities for children;

(**a**) 1977 c.49.

(r) provide adequate facilities for patients to receive visitors in private;

(s) take adequate precautions against the risk of accident;

(t) provide adequate facilities for any person authorised to interview in private any patient in the home.

(2) The person registered shall—

(a) provide for the home to be connected to a public telephone service;

(b) where the home is a maternity home or a home in which surgical operations are undertaken or life support systems used, provide such electrical supply as during interruption of public supply is needed to safeguard the lives of the patients;

(c) at such times as may be agreed with the fire authority, consult that authority on fire precautions in the home;

(d) make adequate arrangements either with the health authority or otherwise for the care of patients, and children born to patients, in medical emergencies;

(e) make adequate arrangements for the running of the home while he, or if he is not in charge of the home, the person who is in charge of it is absent from the home.

Conduct of nursing homes using specially controlled techniques

13. The person registered shall ensure that any treatment (including diagnosis) by specially controlled technique in a nursing home is carried out only by a person who is, or who is acting in accordance with the directions of, a medical practitioner or a dentist.

Transitional provisions

14.— (1) This regulation applies where an applicant or person registered is aggrieved by a decision of the Secretary of State made under regulation 5(4) of the Nursing Homes and Mental Nursing Homes Regulations 1981(**a**) ("the 1981 Regulations") before 1st January 1985 and before that date—

(a) he has appealed to a magistrates' court under regulation 5(5) of the 1981 Regulations and the appeal has not been determined, or

(b) he has not so appealed and the period referred to in regulation 5(5) of the 1981 Regulations has not expired.

(2) Where paragraph (1)*(a)* applies the appeal shall be determined as though regulation 5 of the 1981 Regulations were still in force.

(3) Where paragraph (1)*(b)* applies an appeal against a decision of the Secretary of State made under regulation 5(4) of the 1981 Regulations shall be to a Registered Homes Tribunal and shall be made within the period of twenty one days beginning with the date on which the decision was received.

(**a**) S.I. 1981/932.

Offences

15.— (1) Any person who fails without reasonable cause—

(a) to keep or retain any record which he is required to keep or retain under regulation 7 or Schedule 4; or

(b) to give to a health authority any notice which he is required to give under regulation 8 or 9; or

(c) to furnish any information which he is required to furnish under regulation 10(2),

shall be guilty of an offence against these regulations.

(2) Any person who without reasonable cause refuses to allow a person authorised to inspect any premises or any record under regulation 10(1) shall be guilty of an offence against these regulations.

(3) Any person who fails to comply with any provision of regulation 12, other than regulation 12(2)*(c)*, shall be guilty of an offence against these regulations.

(4) Subject to paragraph (5), the Secretary of State shall not bring proceedings against a person in respect of any failure referred to in paragraph (1) or (3) unless—

(a) he has served on that person a notice in writing specifying—

(i) the provision of these regulations with which that person, in the Secretary of State's opinion, has failed or is failing to comply,

(ii) the respect in which, in the Secretary of State's opinion, that person has failed or is failing to comply with that provision,

(iii) the action which, in the Secretary of State's opinion, should be taken by that person so as to comply with that provision, and

(iv) the period within which such action should be taken; and

(b) the period referred to in sub-paragraph *(a)*(iv) of this paragraph has expired.

(5) Paragraph (4) shall not apply where, at the time proceedings relating to a home are brought—

(a) the Secretary of State has applied to a justice of the peace for an order under section 30(1) of the Act (urgent procedure for cancellation of registration etc.) relating to that home and that application has not yet been determined; or

(b) such an order is in force.

(6) Any person who fails to comply with regulation 13 shall be guilty of an offence against these regulations.

Signed by authority of the Secretary of State for Social Services.

K. Clarke,
Minister of State,
Department of Health and Social Security.

5th October 1984.

Regulation 4(1)

SCHEDULE 1

FEES TO ACCOMPANY APPLICATIONS

1. Subject to paragraph 2, the fee to accompany an application shall be £100.

2. Where, by reason of a proposed change of ownership in the home, an application is made in respect of the person intended to take over the ownership of the home, the fee to accompany an application shall, if there are otherwise no changes in relation to the home, be £75.

Regulation 4(2)

SCHEDULE 2

PARTICULARS REQUIRED TO BE FURNISHED BY AN APPLICANT

1. The full name, address and telephone number and professional or technical qualifications (if any) of the applicant.

2. Where the application is made by a company, society, association or body, the address of its registered office or principal place of business and the full names and addresses and technical qualifications (if any) of the directors or partners.

3. The address of any other home, residential care home, voluntary home within the meaning of the Child Care Act 1980(**a**) or children's home within the meaning of the Children's Homes Act 1982(**b**) in which the applicant has or had a business interest and the nature and extent of his interest.

4. The situation of the home and its form of construction.

5. The telephone number of the home.

6. The accommodation available, and the equipment and facilities provided or to be provided in the home.

7. The date on which the home was established or is to be established.

8. Whether any other business is or will be carried on in the same premises as the home, whether the premises or any part of the premises are or have been registered as a residential care home and whether the applicant proposes to register the premises as a residential care home under Part I of the Act.

9. The type of home (i.e. mental nursing home, maternity home, clinic catering for day-patients only, acute hospital etc.).

10. The number of patients for whom the home is proposed to be used distinguishing between different categories of patients and indicating the age-range of patients in each category.

11. The full names, ages, qualifications and experience of persons employed

(**a**) 1980 c.5.
(**b**) 1982 c.20.

or proposed to be employed in the management of the home and whether they are or will be resident in the home.

12. The arrangements for the management and control of the home.

13. The full names and qualifications of any resident or non-resident employed medical practitioners.

14. The full names and (where appropriate) qualifications and grades of the nursing and other professional, technical, administrative and ancillary staff (other than staff included under paragraph 13) employed or proposed to be employed in the home distinguishing between resident and non-resident staff.

15. The number of hours in each week which the staff referred to in paragraphs 14 and 15 are or are to be required to work.

16. The details of arrangements made or proposed to be made in pursuance of any of the matters mentioned in regulation 12.

17. The arrangements made for the supply of blood and blood products.

18. The arrangements made for the provision of pathology and radiology services.

SCHEDULE 3 Regulation 5

ANNUAL FEES

1. Subject to paragraph 3, the annual fee in respect of a home in which beds are provided for the use of patients at night shall be an amount equal to £10 multiplied by the maximum number of patients.

2. In paragraph 1 the "maximum number of patients" means the number specified in the certificate of registration as being the maximum number of patients who may be kept in the home at any one time.

3. For the purposes of paragraph 1, no account shall be taken of cots provided for the use of children born to women who are patients in the home.

4. The annual fee for a home in which no beds are provided for the use of patients at night shall be £75.

5. Subject to paragraph 6, the annual fee shall be payable within one month of the date on which the certificate of registration was issued and thereafter shall be payable each year on or before the anniversary of the date on which that certificate was issued.

6. A person who immediately before 1st January 1985 was registered in respect of a home under the Nursing Homes Act 1975(a) shall pay the annual fee within three months of that date and thereafter shall pay it each year on or before the anniversary of the date of that payment.

(a) 1975 c.37.

Regulation 7

SCHEDULE 4

RECORDS

PART I

PARTICULARS TO BE INCLUDED IN THE REGISTER OF PATIENTS

1. The name, address, date of birth and marital status of each patient.

2. The name, address and telephone number, if any, of the patient's next of kin or any person authorised by the patient to act on the patient's behalf.

3. The name, address and telephone number of the patient's medical practitioner.

4. Where the patient is a child, the name and address of the school which he attends or attended before entering the home.

5. Where a patient has been received into guardianship under the Mental Health Act 1983(a), the name, address and telephone number of the guardian and if the guardian is a local social services authority the name, address and telephone number of any officer of the authority required to supervise the welfare of the patient.

6. The name and address of any public body which arranged the patient's admission to the home.

7. The date on which the patient entered the home.

8. If the patient has left the home, the date on which he left it.

9. If the patient is transferred to hospital, the date of and reasons for the transfer and the name of the hospital to which the patient is transferred.

10. If the patient died in the home, the date, time and cause of death.

PART II

ADDITIONAL PARTICULARS TO BE INCLUDED IN THE REGISTER OF PATIENTS IN A MATERNITY HOME

1. The date and time of delivery of each patient, the number of children then born to the patient, their sex and whether born alive or dead.

2. The name and qualifications of the person who delivered the patient.

3. The date and the time of any miscarriage occurring in the home.

4. The date on which any child born to a patient left the home.

(a) 1983 c.20.

5. If any child born to a patient died in the home, the date and time of the death.

PART III

PARTICULARS TO BE INCLUDED IN THE CASE RECORD OF A CHILD BORN IN A MATERNITY HOME

1. Details of the weight and condition of the child at birth.

2. A daily statement of the child's health.

3. If any paediatric examination is carried out involving any of the following procedures:—

(a) examination for congenital abnormalities including congenital dislocation of the hip;

(b) measurement of the circumference of the head of the child;

(c) measurement of the length of the child;

(d) screening for phenylketonuria;

details of each such examination.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations replace the Nursing Homes and Mental Nursing Homes Regulations 1981 (as amended) and the Nursing Homes (Lasers) Regulations 1984 (S.I. 1984/958), which were made under the Nursing Homes Act 1975 ("the 1975 Act"). That Act is repealed with effect from 1st January 1985 and replaced by the Registered Homes Act 1984 ("the 1984 Act"), a consolidating Act.

Provision is made by these regulations regarding applications for registration of persons in respect of nursing homes and mental nursing homes, including fees payable on application, (regulation 4 and Schedules 1 and 2), payment of annual fees (regulation 5 and Schedule 3), variation of conditions of registration (regulation 6), keeping of records (regulation 7 and Schedule 4), giving of notices in respect of death in a home or where the person registered or in charge of the home is to be away from the home (regulations 8 and 9), inspection of homes (regulations 10 and 11), provision of facilities and services (regulation 12) and offences (regulation 15). There is a transitional provision (regulation 14) relating to certain appeals from decisions concerning registration consequential upon the fact that as from 1st January 1985 such appeals are, under the 1984 Act, to be made to a Registered Homes Tribunal instead of to a magistrates' court. These regulations continue the special provision previously contained in regulations under the 1975 Act whereby premises on which certain laser products are used are treated as nursing homes and subject to special provisions as to conduct of the home (regulations 3 and 13).

The changes of substance from the regulations replaced are as follows:—

(a) the fee to accompany applications for registration is no longer a variable fee (ranging from £100 to £250 according to the number of beds in the home) but is a flat rate fee, normally of £100 (Schedule 1);

(b) an annual fee is introduced (regulation 5) being, in the case of a home where patients are kept overnight, an amount based on the maximum number of patients who can be kept in the home at any one time (Schedule 3, paragraph 1) and in other cases a flat rate fee of £75 (Schedule 3, paragraph 4);

(c) there are certain new record keeping requirements relating to the information to be kept about patients (Schedule 1, Part I, paragraphs 4, 5 and 6), fire practices, fire alarm tests and fire precautions (regulation 7(8)) and maintenance of equipment (regulation 7(9));

(d) there is a new requirement that the person in charge of a home notify the District Health Authority of any absence from the home of more than four weeks' duration (regulation 9);

(e) there are certain additional requirements as to matters relating to the facilities and services which must be provided in the home (regulation 12) including requirements relating to fire precautions (paragraph (1)(h) and (i)), facilities for patients to receive visitors in private (paragraph (1)(r)), consultation with the fire authority about fire precautions (paragraph (2)(c)) and the making of adequate arrangements when the person in charge of the home is absent from it (paragraph (2)(e));

(f) there is extended a procedure whereby the Secretary of State must give notice before bringing proceedings for an offence against the

regulations, so as to cover failure to comply with requirements as to record-keeping, the giving of notices or the furnishing of information (regulation 15(4)), and there is a new provision whereby such a notice is not necessary in certain circumstances (regulation 15(5)).

Class 3B and Class 4 laser product are defined by reference to British Standard 4803:83 which is published by the British Standards Institution and can be obtained from any of the sales outlets operated by that Institution or direct by post from them at Linford Woods, Milton Keynes, MK14 6LE.

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