Annex 11

Fitness to Practice Matters

Part B

PMS Agreement

The wording below reflects paragraph 58 of Schedule 2 of the PMS (2015):

**Other grounds for termination by the Board**

58.—

1. The Board may give notice in writing to a contractor terminating the agreement with immediate effect, or from such date as may be specified in the notice, if sub-paragraph (4) applies to the contractor—
2. during the existence of the agreement; or
3. if later, on or after the date on which a notice in respect of the contractor’s compliance with the conditions in regulation 5 was given under paragraph 46(1)(a) or (b).
4. Sub-paragraph (4) applies—
5. where a contractor who is an individual medical practitioner is a party to the agreement, to that medical practitioner; or
6. where the agreement is with a contractor which is a qualifying body, to—
   * 1. the qualifying body,
     2. any person both legally and beneficially owning a share in the qualifying body, or
     3. any director or secretary of the qualifying body.
7. In the case of a person who is a party to an agreement made before 1st April 2004 which is deemed to be an agreement made under section 92 of the Act, the reference to “during the existence of the agreement” in sub-paragraph (1) is to be construed as excluding any period before 1st April 2004.
8. This sub-paragraph applies if—
9. the contractor is the subject of a national disqualification;
10. subject to sub-paragraph (5), the contractor has been disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by a licensing body anywhere in the world;
11. subject to sub-paragraph (6), the contractor has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless, before the Board has given notice to the contractor terminating the agreement under this paragraph, the contractor is employed by the health service body from which the contractor was dismissed or by another health service body;
12. the contractor has been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the Act(a) respectively) unless the contractor’s name has subsequently been included in such a list;
13. the contractor has been convicted in the United Kingdom of murder;
14. the contractor has been convicted in the United Kingdom of a criminal offence other than murder and has been sentenced to a term of imprisonment of longer than six months;
15. subject to sub-paragraph (7), the contractor has been convicted elsewhere of an offence which would, if committed in England and Wales constitute murder, and—
    * 1. the offence was committed on or after 14th December 2001, and
      2. the contractor was sentenced to a term of imprisonment of longer than six months;
16. the contractor has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933(a) (offences against children and young persons, with respect to which special provisions of this Act apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1955(b) (offences against children under the age of 17 years to which special provisions apply);
17. the contractor has at any time been included in—
    * 1. any barred list within the meaning of section 2 of the Safeguarding Vulnerable Groups Act 2006(c) (barred lists), or
      2. any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(d) (barred lists),

unless the contractor was removed from the list either on the grounds that it was not appropriate for the contractor to have been included in it or as the result of a successful appeal;

1. the contractor has within the period of 5 years before the signing of the agreement, been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission, the Charity Commission for Northern Ireland or the High Court, and that order was made on the grounds of misconduct or mismanagement in the administration of a charity for which the contractor was responsible or to which the contractor was privy, or which was contributed to, or facilitated by, the contractor’s conduct;
2. the contractor has, within the period of five years before the signing of the agreement or the commencement of the agreement, whichever is the earlier, been removed from being concerned with the management or control of any body in any case where removal was by virtue of section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005(e) (powers of Court of Session);
3. the contractor—
   * 1. has been adjudged bankrupt and has not been discharged from the bankruptcy or the bankruptcy order has not been annulled, or
     2. has had sequestration of the contractor’s estate awarded and has not been discharged from the sequestration;
4. the contractor is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(f) (bankruptcy restrictions order and undertaking) or in Schedule 2A to the Insolvency (Northern Ireland) Order 1989(g) (bankruptcy restrictions order and undertaking), or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(h) (bankruptcy restrictions order, interim bankruptcy restrictions order and bankruptcy restrictions undertaking) unless the contractor has been discharged from that order or that order has been annulled;
5. the contractor—
   * 1. is subject to a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986(a) (debt relief orders) applies, or
     2. is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act(b) (debt relief restrictions order and undertaking);
6. the contractor has made a composition agreement or arrangement with, or a trust deed has been granted for, the contractor’s creditors and the contractor has not been discharged in respect of it;
7. the contractor is a company which has been wound up under Part IV of the Insolvency Act 1986 (c)(winding up of companies registered under the Companies Acts);
8. an administrator, administrative receiver or receiver has been appointed in respect of the contractor;
9. the contractor has had an administration order made in respect of the contractor under Schedule B1 to the Insolvency Act 1986(d) (administration);
10. the contractor is subject to—
    * 1. a disqualification order under section 1 of the Company Directors Disqualification Act 1986(e) (disqualification orders: general) or a disqualification undertaking under Section 1A of that Act(f) (disqualification undertakings: general), or
      2. a disqualification order or disqualification undertaking under article 3 (disqualification orders: general) or article 4 (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002(g) unless that order has ceased to have effect or has been annulled, or
      3. a disqualification order under section 429(2) of the Insolvency Act 1986(h) (disabilities on revocation of an administration order against an individual); or
    1. the contractor has refused to comply with a request made by the Board for the contractor to be medically examined because the Board is concerned that the contractor is incapable of adequately providing services under the agreement.
11. The Board may not terminate the agreement in accordance with sub-paragraph (4)(b) where the Board is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the contractor unsuitable to be—
    1. a party to the agreement; or
    2. in the case of an agreement with a qualifying body—
       1. a person both legally and beneficially owning a share in the qualifying body, or
       2. a director or secretary of the qualifying body,

as the case may be.

1. The Board may not terminate the agreement in accordance with sub-paragraph (4)(c)—
   1. until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or
   2. if, during the period specified in paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of the dismissal, until proceedings before that tribunal or court are concluded,

and the Board may only terminate the agreement at the end of the period specified in paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.

1. The Board must not terminate the agreement in accordance with sub-paragraph (4)(g) or, as the case may be (4)(h), where the Board is satisfied that the conviction does not make the person unsuitable to be—
   1. a party to the agreement; or
   2. in the case of a qualifying body—
      1. a person both legally and beneficially owning a share in the qualifying body, or
      2. a director or secretary of the qualifying body,

as the case may be.