

# **SL(6)504 – The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) (Amendment) Regulations 2024**

## **Background and Purpose**

The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) Regulations 2004 (**the principal Regulations**) make provision as to the drugs, medicines or other substances that may be ordered for patients in the provision of medical services under a general medical services contract.

These Regulations amend the principal Regulations by:

- placing restrictions on the prescribing of gonadotrophin releasing hormone (GnRH) analogues by NHS general practitioners in Wales when used to suppress puberty as part of treating gender incongruence or gender dysphoria in children and young people under 18 years of age.
- removing the current restriction on NHS general practitioners in Wales prescribing of vitamin B12 (cyanocobalamin) tablets.

## **Procedure**

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

## **Technical Scrutiny**

The following 3 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Regulation 2(2)(a) to (c) inserts text into the table in Schedule 2 to the principal Regulations, doing so by inserting text “at the appropriate place”.

In this case, we believe the drafting should have pinpointed exactly where the new text should be inserted in each of the columns in Schedule 2. We note that [when the table was amended by the Welsh Ministers in 2005](#), a more precise approach was adopted which left no room for



confusion as to where the text should be inserted. We believe that approach should have been used in these Regulations.

## **2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Regulation 2(3) defines “general medical practitioner” as a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council under section 2 of the Medical Act 1983.

However, the requirement to keep the “General Practitioner Register” is set out in section 34C of the Medical Act 1983, not section 2. Section 2 provides for a different register, namely “the register of medical practitioners”.

Therefore, the definition of “general medical practitioner” in the Regulations is unclear.

## **3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

In regulation 2(4), there are several errors in the description of the existing text identified for amendment and in the new text that will replace that text—

- (a) in the description of the text identified for amendment in the definition of “patient”, there is a difference between the English and Welsh text. In the English text, the title of the instrument is noted as “National Health Service (General Medical Services Contracts) (Wales) Regulations 2004” but in the Welsh text it is noted as “National Health Services (General Medical Services Contracts) (Wales) Regulations 2004”. The Welsh text is correct as it cites the existing text including the error in the title of the instrument that was inserted by a previous amendment.
- (b) in the new text that will replace the existing text, the title of the instrument is incorrect—
  - (i) in both language texts, part of the title of the instrument is incorrect as they both note “National Health Services...” but the correct title of the instrument is “National Health Service...”;
  - (ii) there is a difference between the English and Welsh texts in the title of the instrument that will replace the existing reference. In the English text, part of the title is incorrectly noted as “(General Medical Service Contracts)” but in the Welsh text it is correctly noted as “(General Medical Services Contracts)”.

## **Merits Scrutiny**

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.



## Welsh Government response

A Welsh Government response is required to the second reporting point.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**9 July 2024**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**