Private Practice Rules for GPs Working Under An NHS Contract in England – LMC Advice Sheet

Key Principle

GPs and GP Practices are increasingly at the interface of NHS and Private Practice rules, however those holding GMS or PMS NHS contracts are significantly restricted in what they can charge NHS patients for. The general GMS rule is that patients must not be charged for treatment or prescriptions, whether the treatment falls within the NHS contract or not, except in the most limited of circumstances permitted by the regulators.

Breach of such regulations could attract regulatory attention to such contractual obligations with financial impositions, contract termination, and professional investigation.

What Practices cannot do:

A GMS/PMS contractor must not charge its own registered NHS patient or temporary residents for:

- Treatment provided under the NHS Contract.
- Treatment provided outside of the NHS Contract.
- The issue of an acute or repeat prescription.

In essence, a Practice cannot tell a registered NHS patient they must pay privately to access medical treatment that the practice itself is providing free of charge.

What GP Practices can charge for:

GP Practices may charge fees where regulations specifically permit, and this usually relates to non-treatment services such as:

- Medical reports and Health Insurance and reimbursement forms. This includes for Safeguarding reports but not Coroner's/Inquests.
- Specific medical certificates (e.g HGV, Taxi, Pilot, Adoption/Fostering) and non-NHS administration work (e.g TWIMC letter, Occupational directed).
- Non-NHS travel immunisations (e.g Yellow Fever, Rabies, Japanese Encephalitis) and malaria prophylaxis. Mandatory NHS immunisations (Hepatitis A, Cholera, Typhoid, Polio – given as part of combined vaccination - Revaxis) cannot be charged.
- Mental health/debt assessment report (DMHEF) requested directly by 3rd party creditors (although the debtor patient must not be charged).

Private Patients

A GP Practice may provider care to private patients.

- GMS and PMS contracts do not prevent practices from accepting private patients, provided contract restriction are observed however a patient cannot receive private GP care from a practice where they are registered as an NHS patient.

Restrictions Introduced in 2019

Since October 2019, practices cannot:

- Offer or advertise private services during NHS-funded working time; or
- Use NHS-funded premises to provide private services where those services fall within the scope of primary medical services already commissioned by the NHS.

This was intended to prevent practices from charging privately for services that are available through NHS primary care and located at site.

Position of Individual GPs and Practice Structures

The way private practice rules apply depends heavily on whether a doctor is an employed salaried GP, a partner/sole practitioner, or operating through a limited company structure.

1. Salaried GPs

Importantly, the restrictions in Regulation 20(6) apply primarily to the GMS/PMS contractor (the practice) rather than individual employed doctors. A salaried GP is fully entitled to divide their time between delivering NHS services for their practice and delivering private primary care services elsewhere, provided that:

- Private work takes place outside their salaried NHS sessions.
- Their NHS duties and clinical commitment are not compromised.
- There is no conflict of interest or clinical poaching.
- Appropriate independent medical indemnity is in place for private work.
- Any contractual requirements to notify their employer are followed.

2. Sole Practitioners or Partnerships

Where a GP enters into a GMS contract in their own name as a sole practitioner or as a partner in a partnership, they are personally the contractor. Under Regulation 20(6)(a), an individual contracting GP can ONLY provide private primary care medical services outside core NHS hours (8:00 AM to 6:30 PM, Monday to Friday).

This is a highly restrictive provision. Even if a partner has finished their rostered NHS patients for the day or works part-time, they cannot provide private primary care during core hours because they are personally bound as the contract holder.

3. Limited Companies

If the contractor to a GMS contract is a limited company ('Company A'), the restrictions on providing private medical services apply to the company alone, not to the individual GPs who own shares in or direct the company. Therefore, doctor-shareholders could establish a separate limited company ('Company B') to run a private medical practice.

As long as NHS services are fully discharged and kept separate, Company B could provide private care:

- To patients of the NHS practice run by Company A;
- From the practice premises occupied primarily by Company A (subject to cost apportionment rules); and
- Both during core hours and outside core hours.

Using NHS Premises for Private Work

Under separate regulation (PCD 2024), any contractor personally party to a GMS contract must ensure no part of NHS-funded premises is used to provide private medical services without proper cost adjustment.

Where NHS England fully funds practice premises, only NHS primary care services should be delivered. However, there is recognition premises can have shared or third-party uses:

If non-contractors or a separate company (Company B) set up a private service that occupies part of the premises or shares space, statutory cost apportionment rules apply.

Applying apportionment reduces the premises payments from NHS England to reflect the private/shared use. This ensures there is no breach of Regulation 20(6)(b) because the private practice is not operating from any NHS-subsidised part of the premises.

Using NHS IT Systems for Private Work

There is no contractual entitlement in the GMS contract or mechanism under regulations to use NHS-funded IT systems for private general practice use. Familiar NHS IT systems (including clinical software like EMIS/SystmOne, hardware, NHSmail, and electronic prescribing) may not be used for Private work.

Private Referrals

Patients may choose to seek private treatment or self-refer to private providers. If a private provider or insurer requires a GP referral letter, writing this referral for an NHS patient is generally considered part of the GP's contractual NHS work and should not attract a private fee from the patient.

Furthermore, GPs are not obliged to undertake investigations, monitoring, or prescribing requested by a private provider. A GP should only arrange tests or prescribe where:

- It is clinically appropriate;
- The GP is competent to manage the treatment; and
- The GP is willing to take full clinical responsibility for the patient's care.

Private Prescribing

GPs may issue private prescriptions in appropriate circumstances, but NHS GP contractors cannot charge their own registered NHS patients simply for issuing a prescription.

Practical Summary for GPs and Practices

You CAN:

✅ Undertake separate private work outside your NHS role (if salaried).

✅ Treat private patients (subject to contractual and regulatory requirements).

✅ Charge for certain non-NHS administrative services, certificates, and reports.

✅ Refer NHS patients to private providers when clinically appropriate.

✅ Form a limited company (Company B) to run private services with proper cost apportionment.

You CANNOT:

❌ Charge your own registered NHS patients for treatment or prescriptions except where regulations specifically allow.

❌ Convert NHS services into fee-paying services for your registered patients.

❌ Use NHS-funded time or premises to market or provide private primary care without cost apportionment.

❌ Use NHS IT systems (EMIS/SystmOne, hardware, NHSmail) for private patients.

❌ Allow GP partners or sole practitioners to deliver private primary care during core hours (8am–6:30pm).

The LMC sought specific advice from the BMA regarding non-NHS services being delivered to a practice's own patient population and received this response:

A GP working for an independent private provider should, where practicable, avoid providing private treatment to patients for whom they already have responsibility within their NHS practice, in particular where the private service relates to conditions that may also be managed within NHS primary care. Although the rationale is less compelling for services not routinely available on the NHS (e.g. cosmetic procedures), the same principles around professional boundaries, conflicts of interest and patient perception remain relevant. Accordingly, allocation to another clinician would generally be considered best practice wherever feasible.

Bottom Line

NHS contractors must keep NHS care and private care clearly separate. The safest test is whether a registered NHS patient is being asked to pay for treatment that the NHS practice is involved in providing; if so, the arrangement is likely to breach GMS/PMS contract rules unless a specific regulatory exception clearly applies.

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