24 Hour Retirement for GPs

Introduction

In 2006 the NHS Pensions Agency reviewed the then current Regulations and clarified the arrangements that enable General Practitioners to take 24 hour retirement in order to trigger their pension benefits. This opportunity exists for GPs whether salaried or in partnership, but has particular implications for contract holders as the underlying requirement of the NHS Pension Scheme is the members must demonstrate a clear intention to retire.

Rules for Practitioner Scheme Members

All Medical Practitioner Scheme members must:

1. Retire from their NHS Contracts for not less than 24 hours
2. Must not work more than 16 hours per week in the first month after retirement

For Type 1 Medical Practitioners (that is, General Practitioners who are partners or who work single handed) this means that they must resign from any involvement in a GMS contract, PMS agreement, or APMS Contract. Such GPs cannot undertake any NHS work, including locum, OOHs, or salaried employment, for at least 24 hours.

Type 2 Practitioners (that is, salaried General Practitioners) must also resign from their NHS contract of employment with their practice. Locum Practitioners must have no involvement in NHS work for at least 24 hours.

Practitioner scheme members who have a concurrent part-time NHS pensionable Officer post [such as hospital or GPwSI appointments] are not required to resign that post for 24 hours if it involves working for less than 16 hours per week. They must, however, cease paying pension contributions related to that post. This continuing work also counts towards the maximum 16 hours per week that may be undertaken in the first month following retirement, as does any NHS locum work.

It is for the GP to prove compliance with the 16 hour per week rule; if this is exceeded pension payments will be stopped and a member may have to repay any pension benefits that have already been received.

Subsequent to the first month, there are no restrictions on the number of hours that may be worked in NHS re-employment. These rules apply to all Practitioner Scheme members who qualify for the normal age pension, voluntary early retirement pension, and [with some caveats] ill-health pension.

General Practitioners should note that they do not have to resign from the Performers List in order to take 24-hour retirement, and, since this provides eligibility to undertake all forms of NHS primary medical care, the LMC recommends GPs only do so if they are certain that they will not wish to do such work in the future.
Implications for Partnerships and PCT Contracts

Prior to 2006, there is evidence that some PCTs interpreted the rules regarding 24-hour retirement as allowing, particularly in relation to single handed practitioners, their resignation without causing a break in their nGMS or PMS contract. Such GPs may have, for example, been allowed to retire over a weekend if they were opted out of OOHs responsibility. TN14/2006 indicates this is incorrect and all practitioners must resign their NHS contract for 24 hours. This obviously has important implications for all General Practitioners both in terms of their nGMS or PMS contracts, and partnership agreements. Possible solutions are discussed in the LMC guidance: Succession Planning for Partners/Contract-Holders.

Single handed and two partner nGMS practices can, following Regulations, secure their contract but only if the single-handed GP is willing to take on a new partner. Any resignation by a PMS signatory represents a variation in the PMS contract, and especially for smaller practices, what may then occur is discretionary to the Area Team, who often have, unless there are unusual geographical circumstances, a policy of not encouraging the continuation of smaller practices. The LMC strongly recommends such practices informally discuss their proposed plans with the Area Team Director of Primary Care at an early stage, and the LMC can assist with such discussions if requested.

Many partnership agreements do not include any reference to 24 hour retirement and frequently there is no written provision regarding the terms of any return to practice. For nGMS contractors, the Area Team Contract is held by the partnership and a GP will have to resign as a partner in order to fulfil the requirement to retire from their NHS contract for 24 hours. For PMS agreements, being a signatory to the PMS contract and being a member of the partnership are two distinct legal commitments, which the LMC recommends are clarified within a Partnership Agreement. However, undertaking NHS work following 24 hour retirement would require either re-signing the PMS agreement or being engaged by the practice to work, noting that a person cannot be simultaneously a Partner within a business and employed by it.

The LMC therefore recommends that either Partnership Agreements are amended to take into account the opportunity to take 24 hour retirement, or a legal deed is signed prior to the 24 hour retirement setting out the terms and status under which a GP may return to the practice following their retirement. There is no obligation to make such formal agreements, but there is also no automatic right for a partner [or salaried GP] to be readmitted to a practice under their pre-retirement terms.

Financial Implications of 24 hr Retirement

There are two main financial implications following 24 hr retirement, aside from the obvious implication of having now opted out of making NHS superannuation contributions.

The first is the way in which a partnership will treat the superannuation contributions previously made by a partner who rejoins that partnership. There has been some contention over this issue. A GPs NHS superannuable earnings are that GPs NHS superannuable proportion of the gross NHS attributable profits, and are therefore deducted from each partners capital accounts in proportion to their share of the profits. The capital account is thus a reflection of profit share, and if a partner is no longer contributing to the NHS pension scheme, this deduction cannot be made. It therefore follows that a partner who has taken 24 hr retirement is entitled to receive their normal profit share, and will therefore have a 22.5% (14% + 8.5%) greater profit than those partners who are still making superannuation contributions.

It may be that such a returning partner will have negotiated a different profit share if their workload has reduced, but the principle of entitlement to non deducted superannuation remains.

GPs may also see their seniority payments alter if they return to a reduced work commitment. Seniority is the last remaining personalised payment within General Practice, and is based on the proportion of superannuable income received relative to average GP superannuable remuneration. Although GPs who have taken 24 hour retirement do not make superannuable contributions, they still have an identifiable amount of superannuable income against which their entitlement to seniority payments can be assessed. The LMC recommends annual Pension Certificates are still made on behalf of such doctors, but that a nil contribution note is
Salaried General Practitioners are not entitled to seniority payments, and their salary without superannuation deductions is subject to their contractual agreement.

In addition, the LMC advises that colleagues who take 24 hour retirement should, during that financial year, adjust their accounts to reflect a 24 hour period of no income and one calendar month of reduced income, to reflect their commitment to the NHS during these periods.

Summary

Colleagues planning to take 24 hour retirement should:

1. Discuss this option with their financial adviser/pension adviser; the LMC is unable to provide individual financial advice.
2. Contact their local Pensions Officer or the NHS Pensions Agency to confirm eligibility and arrangements – particularly if they hold more than one NHS contract.
3. Discuss their plans with their partners (if applicable) and decide on a mutually agreed approach, particularly in terms of financial arrangements that may apply on a return to a partnership.
4. If holding a single-handed nGMS contract or being in a two-handed nGMS partnership, consider succession planning to secure the future of the contract by using the applicable Regulations.
5. If holding a PMS Contract, discuss the variation with the Area Team in relation to the 24 hour retirement and any subsequent planned return to work.
6. At least 3 months beforehand inform the Area Team and any Officer employers of the date of 24 hour retirement so they can make suitable administrative arrangements.
7. Follow the 24 hour retirement and the subsequent one month 16 hour/week rule and maintain records to document this.
8. Enjoy the pension payments – you have earned them!

This article is provided by kind permission of Dr Julius Parker Chief Executive - Surrey and Sussex LMCs.

Qualifying for Retirement Benefits

For further information about qualifying for retirement benefits you may like to read: NHS Pension Benefits and Retirement - Letter from NHS Pensions Communications Manger.

Useful Links:

NHS pension member hub: https://www.nhsbsa.nhs.uk/member-hub