

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY (RQIA)

FAILURE TO COMPLY NOTICE

Name of Registered Establishment: Ulster Independent Clinic (10636)	Name of Registered Person: Ms Diane Graham
Address of Registered Establishment: 245 Stranmillis Road, Belfast, BT9 5JH	
Issue Date: 23 December 2019	FTC Ref: FTC000086
Regulation not complied with: <u>The Independent Health Care Regulations (Northern Ireland) 2005</u> <i>Fitness of Workers</i> <i>Regulation 19. – (1) The registered person shall ensure that –</i> <i>(a) no person is employed to work in or for the purpose of the establishment or for the purpose of the agency;</i> <i>(b) no medical practitioner is granted consulting or practising privileges, unless that person is fit to work in or for the purpose of the establishment, or for the purposes of the agency; and</i> <i>(c) there is evidence that all professional registration and revaluation requirements are met.</i> <i>(2) A person is not fit to work in or for the purposes of an establishment, or for the purposes of an agency unless –</i> <i>(a) he is of integrity and good character.</i> <i>(b) he has the qualifications, skills and experience which are necessary for the work which he is to perform;</i> <i>(c) he is physically and mentally fit for that work; and</i> <i>(d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.</i> <i>(3) The registered person shall ensure that all healthcare professionals are covered by appropriate professional indemnity.</i>	
Specific failings to comply with regulations: RQIA undertook an unannounced inspection of Ulster Independent Clinic (UIC) from 22 to 24 January 2019 (inclusive). During this inspection we identified a number of areas of significant concern, these included arrangements relating to medical	

governance and specifically arrangements relating to oversight and management of practising privileges and non-consultant grade doctors operating as surgical assistants.

These concerns were highlighted to the Registered Person and members of the Medical Staff Committee, during two separate feedback sessions held on 24 January 2019 and 19 February 2019. They were also outlined in the draft quality improvement plan issued by RQIA to UIC on 22 May 2019 and at a Serious Concerns meeting held with senior management from UIC on 17 July 2019.

On 9 August 2019 RQIA wrote to UIC outlining the actions required to provide assurance that the concerns identified were being appropriately addressed. We required submission of a completed action plan by 2 September 2019, with a monthly update on progress thereafter. We received monthly updates regarding this action plan from UIC in September, October, November and December 2019.

Following our analysis of the information submitted we were concerned that insufficient progress had been made in respect of the oversight and management of medical governance/practising privileges and the arrangements for non-consultant grade doctors operating as surgical assistants in UIC. As a result of our concerns we carried out a further unannounced focused inspection to UIC on 4 November 2019. Our inspectors evidenced limited progress in relation to arrangements for medical governance generally and specifically in relation to oversight of practising privileges and doctors operating as surgical assistants.

Practising Privileges

We identified significant gaps in the oversight and management of practising privileges during our unannounced inspection from 22 to 24 January 2019. At our serious concerns meeting on 17 July 2019 we advised that the only mechanism for a clinician to work in a registered independent hospital is either under a practising privileges agreement or through direct employment by the hospital. We advised that practising privileges can only be granted or renewed when full and satisfactory information has been sought and retained in respect of each of the records specified in Regulation 19 of The Independent Health Care Regulations (Northern Ireland) 2005.

Following the above mentioned serious concerns meeting (17 July 2019) RQIA requested monthly updates on progress in relation to the hospital's action plan for improvement. The monthly updates received did not assure RQIA that sufficient progress was being made in relation to information underpinning practising privileges arrangements, or actions taken to suspend practising privileges for individual medical practitioners who did not furnish the required information. We were concerned about delays in obtaining this important information and we were not assured that sufficient safeguards were in place to protect the safety and wellbeing of patients.

As a result, we carried out a further focused unannounced inspection to UIC on 4 November 2019. We determined that UIC does not have an effective system established or operating for the granting and management of practising privileges for

medical practitioners working in the hospital.

We acknowledge that during our Intention to Serve a Failure to Comply Meeting held on 13 December 2019, UIC provided RQIA with an updated schedule of information required by legislation in relation to medical practitioners with practising privileges. However, there was no agreed standard operating procedure to define the process for application, granting, maintenance and withdrawal of practising privileges in place in the hospital. We remained concerned and were not assured that the hospital's Registered Person or Board of Directors have an appropriate system in place for robust oversight and management of practising privileges.

During our focused inspection on 4 November 2019 we determined that a number of clinicians working in UIC are working in wholly private practice. On review of the documentation held in respect of this group of clinicians we determined that not all of the required information had been sought and retained in respect of each of the records specified in Regulation 19 of The Independent Health Care Regulations (Northern Ireland) 2005; there were no training records available to confirm that this group of doctors had completed the required mandatory training.

Surgical Assistants

In relation to non-consultant grade doctors operating as surgical assistants in UIC, we were informed during our focused inspection on 4 November 2019 that a number of these doctors continue to support Consultants operating in UIC. We were advised that these doctors continue to work under the invitation of individual Consultants and that they are neither employed by the hospital nor have individual practising privileges agreements in place. RQIA previously raised concerns regarding these doctors operating as surgical assistants at our unannounced inspection undertaken from 22 to 24 January 2019, at the Serious Concerns meeting on 17 July 2019 and during our unannounced inspection on 4 November 2019.

We are not assured that the Registered Person and Board of Directors of UIC have made a formal determination regarding how this service will be delivered within the hospital (either under a practising privileges agreement or through direct employment of non-consultant grade doctors by UIC). We acknowledge that some information has been obtained by UIC for this group of doctors as described during our Intention to Serve a Failure to Comply Notice Meeting held on 13 December 2019. This may be an indication that UIC wishes to include this group of doctors under practising privileges agreements however these arrangements are currently not clear. We were not assured that sufficient safeguards were in place to protect the safety and wellbeing of patients.

We are advised that a majority of the non-consultant grade doctors operating as surgical assistants in UIC are doctors in training. We are currently not assured about the systems/processes in place in the hospital for the training and supervision of these doctors. We are not assured that there are sufficiently robust arrangements in place to oversee the fitness and competence of these doctors.

As a result of these concerns RQIA has determined to serve one Failure to Comply

Action required to comply with regulations:

The Registered Person, Chairman of the Medical Staff Committee and Board of Directors must:

1. Implement and assure a live and functioning system for oversight and management of medical governance for all medical practitioners working within the hospital, specifically to ensure that:
 - a) a suitable standard operating procedure (SOP) is in place to define the process for application, granting, maintenance and withdrawal of practising privileges in place in the hospital. This procedure should include timescales for each step outlined in the process and ensure there is clarity of expectations and actions;
 - b) all medical staff provide the required documentation, as outlined in legislation to maintain their practising privileges agreements, in a timely manner and on an ongoing basis;
 - c) there are up to date co-signed practising privileges agreements in place for all medical practitioners working in the hospital, these should be signed by both the doctor and Registered Person and should be reviewed every two years;
 - d) all medical practitioners granted practising privileges have received a signed up-to-date copy of their practising privileges agreement and understand the standard operating procedure in place in relation to practising privileges, this includes actions the Registered Person and Board of Directors will take should the medical practitioner be non-compliant with the procedure;
 - e) that all documentation required by legislation is held by UIC for all doctors working in wholly private practice, this includes evidence of mandatory training as advised by RQIA;
 - f) the practice of using non-consultant grade doctors, under the supervision of Consultants, rather than under a practising privileges agreement or direct employment of UIC ceases with immediate effect and RQIA is provided with urgent written confirmation of this action;
 - g) a formal determination is made regarding what arrangements will be in place for non-consultant grade doctors operating as surgical assistants in the hospital;

- h) robust governance systems and processes are in place to assure the fitness and competence of; i) all medical practitioners working under practising privileges agreements and ii) all non-consultant grade doctors operating as surgical assistants in UIC, including arrangements for supervision and training;

- i) non-consultant grade doctors operating as surgical assistants in UIC are doing so through agreed arrangements and that the time spent/service delivered in UIC is in addition to HSC commitments of these doctors.

The Registered Person may make written representations to the Chief Executive of RQIA regarding the issue of a failure to comply notice, within one month of the date of serving this notice.

Date by which compliance must be achieved: 23 February 2020

Signed.....*Dr. Nuala Geoghegan*.....
Director of Improvement and Medical Director

This notice is served under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and The Independent Health Care Regulations (Northern Ireland) 2005

It should be noted that failure to comply with some regulations is considered to be an offence and RQIA has the power under regulations to prosecute for specified offences.