

Health and Care Bill

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

Clause 3

LORD LANSLEY

Page 2, line 8, at end insert “and insert “, including in achieving improvements in the outcomes recorded in the NHS Outcomes Framework””

Page 2, line 20, leave out “(5)” and insert “(4)”

Clause 16

LORD BLACK OF BRENTWOOD
BARONESS MASHAM OF ILTON
LORD HUNT OF KINGS HEATH

Page 14, line 4, at end insert –

“(j) fracture liaison services to identify people at increased risk of fragility fractures and prevent future fractures.”

Clause 20

BARONESS HOLLINS

Page 16, line 20, after “of” insert “physical and mental”

LORD CLEMENT-JONES
BARONESS BARKER

Page 16, line 42, at end insert –

“(c) the provision of information about the deployment of new treatments and technologies.”

Member’s explanatory statement

This amendment would require ICBs to involve patients in decisions relating to the provision of information about new treatments and technologies.

Page 17, line 4, at end insert –

- “(2) This includes the provision of information about the deployment of new treatments and technologies.”

Member’s explanatory statement

This amendment would require ICBs to provide patients with information about new treatments and technologies to inform patient choice.

BARONESS HOLLINS

Page 18, line 2, at end insert –

- “(2A) Each integrated care board must publish, at least once every two years, a shared health and social care outcomes framework to secure that the provision of health services is integrated with the provision of health-related services and social care services as set out in subsections (1) and (2).
- (2B) In developing the shared health and social care outcomes framework, the integrated care board must consult any relevant bodies.
- (2C) In this section “relevant bodies” means –
- (a) NHS England,
 - (b) an integrated care partnership,
 - (c) a local authority (within the meaning of section 2B),
 - (d) a combined authority,
 - (e) social care providers or representatives, and
 - (f) other bodies deemed relevant by the integrated care board”.

Member’s explanatory statement

This amendment would require integrated care boards to develop and publish a health and social care outcomes framework, at least every two years, in order to ensure health and social care services are properly integrated. This should be developed with a wide range of expertise across the health and social care sectors.

Page 18, line 38, at end insert –

“14Z43A Duty of parity of esteem between physical and mental health

Each integrated care board must exercise its functions with a view to securing parity of esteem of physical and mental health services to –

- (a) improve the quality of the physical and mental health services (including the outcomes that are achieved from their provision),
- (b) reduce inequalities between persons with respect to their ability to access those services, or
- (c) reduce inequalities between persons with respect to the outcomes achieved for them by the provision of those services.”

Member’s explanatory statement

This amendment will require integrated care boards to work towards a parity of esteem between physical and mental health services replicating the parity of esteem duty introduced in the Health and Social Care Act 2012.

LORD SHARKEY
BARONESS WALMSLEY

Page 20, leave out lines 20 to 43

After Clause 35

BARONESS HOLLINS

Insert the following new Clause –

“Report on parity of pay of the workforce

- (1) The Secretary of State must, at least once annually, publish a report describing the system in place, and progress made, to bring about parity in pay between individuals working in health services and individuals working in social care services.
- (2) In determining the extent to which parity of pay has been achieved, the Secretary of State must consider –
 - (a) the basic pay of individuals working in health services and individuals working in social care services;
 - (b) the rates of pay progression available to individuals working in health services and individuals working in social care services;
 - (c) the percentage of individuals working in health services and individuals working in social care services who are on entry level pay.
- (3) The Secretary of State must consult any relevant bodies in the development of this report.
- (4) In this section “relevant bodies” means –
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) a local authority (within the meaning of section 2B),
 - (d) a combined authority,
 - (e) social care providers or representatives, and
 - (f) other bodies deemed relevant by the Secretary of State.”

Member’s explanatory statement

This amendment will require the Secretary of State to publish a report on the work undertaken to bring parity of pay between health and social care services. This report will require the Secretary of State to consult with relevant bodies in the development of these reports.

Clause 54

LORD CRISP

Page 53, leave out lines 18 to 20 and insert –

- “(a) an individual trust, and
- (b) the capital expenditure limit.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Page 53, line 21, at end insert –

- “(3A) An order may only be made in respect of a trust where NHS England and the trust have considered and reasonably pursued all other steps and mitigations to limit the capital expenditure of the trust to the extent that there is credible evidence that such capital expenditure materially exceeds, or is forecast to materially exceed, the trust’s –
- (a) planned capital resource use under the joint capital resource use plan as prepared under section 14Z54, or
 - (b) any revised joint capital resource use plan as prepared under section 14Z55 in that financial year.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Page 53, leave out line 22 and insert –

- “(4) The Secretary of State must lay before Parliament a report which includes –
- (a) the reasons for making the order, and
 - (b) a summary of any representations made by the trust along with the statutory instrument making the order.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Page 53, line 25, at end insert –

- “(5A) A capital expenditure limit imposed by an order made under subsection (1) ceases to have effect at the end of the financial year in which it is made.”

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Page 54, line 1, leave out from “(5)” to end of line 3 and insert –

- “(a) in subsection (4), before paragraph (a) insert –
- “(za) section 42B,”;
- (b) in subsection (4A), after “section” insert “42B,”;
- (c) after subsection (4A) insert –
- “(4B) A statutory instrument containing an order under section 42B must be laid before Parliament after it is made.””

Member’s explanatory statement

This amendment along with the other amendments in the name of Lord Crisp to Clause 54 seek to deliver the legislative proposals agreed with NHS England and NHS Improvement in 2019.

Schedule 10

LORD LANSLEY

Page 217, line 8, at end insert –

“(2A) For the purposes of subsection (1)(b) the prescribed percentage may not exceed 20%.”

Clause 70

LORD SHARKEY

Page 64, line 22, at end insert –

- “(8) Regulations made under the powers set out in subsections (1) to (3) are subject to the “super affirmative procedure” as set out in subsections (9) to (16).
- (9) The Secretary of State must lay before Parliament –
 - (a) a draft of the regulations, and
 - (b) a document which explains the draft regulations.
- (10) Where a draft of the regulations is laid before Parliament under subsection (9), no statutory instrument containing the regulations may be laid before Parliament until after the expiry of the 30-day period.
- (11) The Secretary of State must request a committee of either House of Parliament whose remit includes health, science or technology to report on the draft regulations within the 30-day period.
- (12) In preparing a draft statutory instrument containing the regulations, the Secretary of State must take account of –
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee under subsection (11),made within the 30-day period with regard to the draft regulations.
- (13) If, after the 30-day period, the Secretary of State wishes to make regulations in the terms of the draft or a revised draft, he or she must lay before Parliament a statement –
 - (a) stating whether any representations, resolutions or recommendations were made under subsection (12);
 - (b) giving details of any representations, resolutions or recommendations so made; and
 - (c) explaining any changes made in any revised draft of the regulations.
- (14) The Secretary of State may make a statutory instrument containing the regulations (whether or not revised) if, after the laying of the statement required under subsection (13), a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (15) In this section, references to “the 30-day period” in relation to any draft regulations is to the period of 30 days beginning with the day on which the original draft regulations were laid before Parliament.
- (16) For the purposes of subsection (15) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.”

Clause 91

LORD SHARKEY

Page 85, line 23, leave out subsections (4) to (6)

Clause 136

LORD SHARKEY

Lord Sharkey gives notice of his intention to oppose the Question that Clause 136 stand part of the Bill.

Clause 140

BARONESS BULL

Page 117, line 22, at end insert –

“(2A) In section 15 (cap on care costs), in subsection (4) leave out “may” and insert “must”.”

Member’s explanatory statement

This amendment will require regulations to set out the provisions listed in Care Act 2014 section 15(4).

Page 117, line 22, at end insert –

“(2A) In section 15 (cap on care costs), after subsection (4) insert –

“(4A) The regulations must ensure that, for the purposes of this Part, “persons of a specified description” include people who receive, or have received, care and support on or before the age of 40, as a result of meeting the eligibility criteria set out in section 13 (the eligibility criteria).””

Member’s explanatory statement

This amendment will require regulations to set out that persons entering the care system at or under the age of 40 will have their care costs capped at £0. This would apply to new applicants as well as existing care users who, while over the age of 40, have been accessing care and support since before the age of 40.

After Clause 140

BARONESS FINLAY OF LLANDAFF

Insert the following new Clause –

“Registration of tertiary prevention activities in respect of provision of social care

In section 9 of the Health and Social Care Act 2008, in subsection (3) at the end insert “or any form of reablement and rehabilitation provided under section 2 of the Care Act 2014 to reduce the need for care and support”.”

Member’s explanatory statement

This new Clause would bring reablement and rehabilitation provided under Section 2 of the Care Act 2014 to reduce the need for care and support into the purview of the Care Quality Commission.

Clause 141

BARONESS BENNETT OF MANOR CASTLE

Page 119, line 17, at end insert –

“(c) after subsection (2) insert –

“(3) No financial assistance provided under this section may be used for the purposes of –

(a) repaying debt;

(b) paying interest on debt;

(c) making distributions to shareholders.””

Member’s explanatory statement*This amendment ensures that financial assistance given by the Secretary of State is not distributed to shareholders or used to repay debt obligations.***Clause 142**

BARONESS FINLAY OF LLANDAFF

Page 121, line 7, at end insert –

“(f) after subsection (2ZC)(n) insert –

“(p) the provision of reablement or rehabilitation provided to reduce the need for care and support for persons in England under section 2 of the Care Act 2014.””

Member’s explanatory statement*This change would bring staff providing reablement and rehabilitation services into regulation, in the same way as other professions involved in delivery of regulated adult social care activities.***Schedule 17**

LORD MOYLAN

Page 235, line 5, at end insert “which may not include products containing more than 50% fruit, nuts and seeds in their composition, nor chocolate confectionery in portion sizes smaller than 200 kcal, as set out in Public Health England guidelines,”

Member’s explanatory statement*This amendment allows the promotion of healthier bars made up of fruit, nuts, and seeds and takes into consideration the importance of portion size in helping consumers to make healthier choices.*

Page 236, line 3, at end insert “which may not include products containing more than 50% fruit, nuts and seeds in their composition, nor chocolate confectionery in portion sizes smaller than 200 kcal, as set out in Public Health England guidelines,”

Member’s explanatory statement*This amendment allows the promotion of healthier bars made up of fruit, nuts, and seeds and takes into consideration the importance of portion size in helping consumers to make healthier choices.*

After Clause 148

LORD LANSLEY

Insert the following new Clause—

“Register of cosmetic surgery practitioners

- (1) The Medical Act 1983 is amended as follows.
- (2) In section 34 (publication of the registers), in subsection (2)(ba)—
 - (a) omit the “and” at the end of sub-paragraph (ii);
 - (b) after sub-paragraph (ii) insert—
 - “(iii) whether he or she is eligible to be admitted to the Specialist Register in accordance with the scheme set out in section 34DA of this Act; and”.
- (3) After section 34D, insert—

“34DA Scheme for registering cosmetic surgery practitioners

- (1) Within twelve months of the day on which the Health and Care Act 2022 is passed, the General Council must create a scheme through which a medical practitioner who possesses professional qualifications, certificates or credentials relating to cosmetic surgery or cosmetic procedures is required to be identified as such on the Specialist Register, even if he or she practises outside the National Health Service, unless excluded under subsection (3).
- (2) In creating this scheme, the General Council must set out the criteria which will be considered in determining whether to include a person as qualified to provide cosmetic surgery or cosmetic procedures in the Specialist Register, having regard to the recommendations made by the Cosmetic Surgery Interspecialty Committee of the Royal College of Surgeons.
- (3) The criteria in subsection (2) must ensure that any person whose name has been removed from the Specialist Register under regulations made by virtue of section 29B (grant, refusal and withdrawal of licence) of this Act is excluded from the Specialist Register.”

LORD MOYLAN

Insert the following new Clause—

“Treatment of pancreatic cancer patients

- (1) The Secretary of State must, within three months of this Act being passed, lay before each House of Parliament a report on the interim findings of the audit of pancreatic cancer services commissioned by NHS England and NHS Improvement, including recommendations arising from those interim findings for urgent implementation in the treatment of pancreatic cancer patients.
- (2) Every six months thereafter until the audit referred to in subsection (1) is completed, the Secretary of State must lay before each House of Parliament an updated report on its interim findings and recommendations; and when the audit is completed, the Secretary of State must lay before each House of Parliament a report on its final findings and recommendations.

After Clause 148 - continued

- (3) The Secretary of State must, within three months of this Act being passed, publish national guidance making the appropriate prescription of Pancreatic Enzyme Replacement Therapy a priority within pancreatic cancer care in the NHS through the implementation of national targets.
- (4) The Secretary of State must, within a year of this Act being passed and every year thereafter, publish data on the prescription of Pancreatic Enzyme Replacement Therapy for pancreatic cancer patients.”

Clause 85

BARONESS FINLAY OF LLANDAFF

Page 75, line 40, after “assistance” insert “or any form of reablement and rehabilitation provided under section 2 of the Care Act 2014 to reduce the need for care and support”

Member’s explanatory statement

These changes would bring local authority reablement and rehabilitation activities, defined by Care and Support Statutory Guidance as “tertiary prevention”, into regulation and enable the Secretary of State to require information on their operation.

Clause 150

LORD SHARKEY

Page 128, line 22, at end insert –

- “(3A) Regulations under section 89 are subject to the “super affirmative procedure” as set out in subsections (3B) to (3I).
- (3B) The Secretary of State must lay before Parliament –
 - (a) a draft of the regulations, and
 - (b) a document which explains the draft regulations.
- (3C) Where a draft of the regulations is laid before Parliament under subsection (3B), no statutory instrument containing the regulations may be laid before Parliament until after the expiry of the 30-day period.
- (3D) The Secretary of State must request a committee of either House of Parliament whose remit includes health, science or technology to report on the draft regulations within the 30-day period.
- (3E) In preparing a draft statutory instrument containing the regulations, the Secretary of State must take account of –
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee under subsection (3D), made within the 30-day period with regard to the draft regulations.
- (3F) If, after the 30-day period, the Secretary of State wishes to make regulations in the terms of the draft or a revised draft, he or she must lay before Parliament a statement –

Clause 150 - continued

- (a) stating whether any representations, resolutions or recommendations were made under subsection (3E),
 - (b) giving details of any representations, resolutions or recommendations so made, and
 - (c) explaining any changes made in any revised draft of the regulations.
- (3G) The Secretary of State may make a statutory instrument containing the regulations (whether or not revised) if, after the laying of the statement required under subsection (3F), a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3H) In this section, references to “the 30-day period” in relation to any draft regulations is to the period of 30 days beginning with the day on which the original draft regulations were laid before Parliament.
- (3I) For the purposes of subsection (3H) no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.”

Member’s explanatory statement

This amendment makes regulations for transfer of functions under Clause 89 subject to a super affirmative procedure.

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5 January 2022
