

A flawed Bill with a hidden purpose

The passage of England's Health and Social Care Bill has been highly controversial and unusually prolonged owing to extraordinary public, professional, and parliamentary concern. On Feb 8, 2012, the Bill entered the House of Lords report stage. By this date, 301 amendments had been tabled to the Bill to be moved at report stage; of these, 165 (mainly government) amendments were tabled on Feb 1. This excess of amendments in itself raises serious issues about the processes to ensure the robustness of parliamentary scrutiny.

The UK Government has given several assurances to parliamentarians that it has taken heed of the concerns of the public, patients, peers, and medical and nursing professions, some of which are set out in a Comment (Feb 4, p 387).¹ It has tabled further amendments to allay concerns. On Feb 6, we published a briefing² which covers crucial amendments relevant to the fundamental structural changes contained in the Bill, specifically the transfer of powers to clinical commissioning groups (CCGs) and other commissioners in place of the current delegation of powers to primary care trusts (PCTs). In it we show that:

(1) The amendment to Clause 1, which concerns the duties of the Secretary of State for Health, would not restore the duty to provide health services or to secure provision, which, in association with section 3 of the National Health Service (NHS) Act 2006, is the duty that underpins the current structure of the NHS.

(2) Amendments to Clause 4, which promotes autonomy over public health, would still require the Secretary of State to accept the principle of autonomy.

(3) Amendments to Clause 12, which concerns the new structures of the NHS, namely CCGs, would not require CCGs, operating on behalf of the Secretary of State, to make sure that comprehensive and equitable health

care is available for everyone, nor to be responsible for all residents in single geographically defined areas that are contiguous, without being able to pick and choose patients.²

(4) Amendments to Clauses 24 and 25, which again concern the responsibilities of CCGs are aimed at universal coverage. However, as we show in our briefing,² these are oblique and messy, do not go very far, and do not address the problem of service and patient coverage at source.

(5) Amendments to Schedule 2, which concerns the basis of services, leave unchanged the legal basis for private companies and law and accounting firms to commission services instead of the Secretary of State.

The Government's continued insistence on its structural changes and its failure to provide an adequate account of why they are necessary confirms concerns that the policy rationale has not been fully disclosed. The Government says that its changes are "vital".³ But this is only the case if the object is to create a system that permits alternative funding sources for services currently provided free as part of the NHS. These amendments do not affect the heart of the policy behind the Bill, which is to introduce a mixed financing system and to abolish the model of tax-financed universal health care on which the NHS is based.

The Bill and current amendments fail to safeguard the core principles of universal care and the duties of the Secretary of State to uphold those principles. The duty on the Secretary of State to provide or secure provision in accordance with the founding legislation of the 1946 Act must be restored if England is to have a national health service.

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- 1 Pollock AM, Price D, Roderick P, et al. How the Health and Social Care Bill 2011 would end entitlement to comprehensive health care in England. *Lancet* 2012; **379**: 387-89.
- 2 Pollock AM, Price D, Roderick P, Treuherz T. Briefing note 14. Clauses 1, 4, 12 and Schedule 2: the duty to provide, the hands-off clause, GP commissioning, and the red lines. http://www.allysonpollock.co.uk/administrator/components/com_article/attach/2012-02-06/20120206-Pollock_HouseOfLords_HSCB_Briefing14_C1_4_12_Sch2_06Feb12.pdf (accessed Feb 10, 2012).
- 3 House of Lords Constitution Committee. 22nd report, Health and Social Care Bill: follow-up. Appendix 2, correspondence: letter from Earl Howe, Parliamentary Under Secretary of State for Quality, Department of Health, 10 October 2011. <http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/240/24005.htm> (accessed Feb 10, 2012).



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Medical students speak out on detrimental National Health Service reforms

Medsin-UK (a group of students with more than 3000 members across the UK) is calling for the Health and Social Care Bill to be dropped. In addition to the concerns highlighted by the Royal College of General Practitioners (RCGP),¹ medical students have major concerns that the reforms are potentially detrimental to medical education.

Principally, we are concerned that the reforms jeopardise the future training of health-care professionals. Medical education is threatened by the fragmentation of services and an uncertainty over who will be mandated to provide education and training, especially at a postgraduate level.² These concerns arise for two reasons. First, the move to isolate education and training in a separate bill implies that the reforms to the health-care system and education are two completely separate entities. It is a dangerous assumption that health-care structure does not significantly affect education, since the health

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