Patient Rights (Scotland) Bill

Bill Number: SP Bill 42
Introduced on: 17 March 2010
Introduced by: Nicola Sturgeon MSP (Government Bill)
Passed: 24 February 2011
Royal Assent: 31 March 2011

Passage of the Bill

The Patient Rights (Scotland) Bill was introduced in the Scottish Parliament on 17 March 2010 and the Health and Sport Committee was designated as the lead committee. Stage 1 oral evidence on the general principles of the Bill was taken over the autumn with the stage 1 debate taking place on 17 November 2010. The Bill was passed following the stage 3 parliamentary debate on 24 February 2011.

Purpose and objectives of the Bill

The purpose of the Bill was to promote and strengthen patient rights.

Provisions of the Bill

The Bill contained a number of provisions for enhancing patient rights, these included:

- The creation of new statutory rights for patients which would be in addition to their existing rights
- The creation of a set of principles which would underpin how healthcare is delivered
- The creation of a statutory treatment time guarantee (TTG) of 12 weeks
• Renewing the legislation on complaints and giving patients a right to complain, raise concerns or give feedback

• The creation of a Patient Advice and Support Service (PASS), responsible for promoting the rights and responsibilities in the Bill

• The creation of Patient Rights Officers (PROs), responsible for providing advice and information to patients about the PASS, the health service, giving feedback and making complaints

Parliamentary consideration

Stage 1

At stage 1 of the Bill, much of the debate focused on whether primary legislation was the best method to promote and strengthen the rights of patients. Concerns related to this included the fact that the rights provided for in the Bill would not be enforceable through the courts and that the Bill did not enshrine all rights available to patients. Subsequently, some felt those rights not stated in the Bill may be treated with less priority.

Other areas of debate included:

• The potential of the TTG to skew clinical priorities and concerns over what would, and would not be, included within it

• The likely impact of changes to the complaints system and the effect of giving patients a right to complain

• The need for a new PASS and the role of PROs

• The financial implications of the Bill

The overall conclusion of the Committee at stage 1 was that it was unable to make a recommendation to Parliament on the general principles of the Bill. This was primarily due to a division of opinion on the use of primary legislation. Those committee members opposed to primary legislation were of the opinion that a revised patients’ charter may be a more appropriate vehicle.

Stage 2

The most significant amendment made to the Bill at stage 2 was the inclusion of a duty which would require ministers to publish a patients’ charter of rights and responsibilities. This charter would be a comprehensive account of all of the existing rights and responsibilities of patients, and have the ability to confer new ones. Other key changes included the removal of the provisions which would create the role of PROs.

Some amendments that were debated but not agreed to included the creation of a system of ‘no-fault’ compensation and the replacement of the Treatment
Time Guarantee with a ‘Patient Guarantee’ in which the maximum wait would be set by the patient’s General Practitioner.

**Stage 3**

The Bill remained broadly unchanged at stage 3 with most amendments intended to ‘fine-tune’ the existing provisions. These amendments included removing the ability of the patients’ charter to create new rights or alter existing rights. Also, the role of the PASS was amended to allow it to promote patient rights not in the Bill and to deal with matters beyond the health service. This was to enable the PASS to provide a more holistic service.

**The Bill (As Passed)**

When enacted, the Patient Rights (Scotland) Act 2011 will:

- Require Ministers to publish a comprehensive ‘Charter of Patient Rights and Responsibilities’ which should outline all rights and responsibilities existing at the time of publication
- Give NHS bodies a duty to uphold the health care principles outlined in the schedule to the Act
- Implement a statutory treatment time guarantee of 12 weeks with eligibility to be defined in regulations
- Implement a system of ‘feedback, comments, concerns or complaints’
- Create the Patient Advice and Support Service

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