HEALTH COMMITTEE

Tuesday 24 May 2005

Session 2

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CONTENTS

Tuesday 24 May 2005

HEALTH COMMITTEE
15th Meeting 2005, Session 2

CONVENER

*Roseanna Cunningham (Perth) (SNP)

DEPUTY CONVENER

*Janis Hughes (Glasgow Rutherglen) (Lab)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
*Kate Maclean (Dundee West) (Lab)
*Mr Duncan McNeil (Greenock and Inverclyde) (Lab)
*Mrs Nanette Milne (North East Scotland) (Con)
Shona Robison (Dundee East) (SNP)
*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
*Dr Jean Turner (Strathkelvin and Bearsden) (Ind)

COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)
Paul Martin (Glasgow Springburn) (Lab)
*Mr Stewart Maxwell (West of Scotland) (SNP)
Mary Scanlon (Highlands and Islands) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Rhona Brankin (Deputy Minister for Health and Community Care)

CLERK TO THE COMMITTEE

Simon Watkins

SENIOR ASSISTANT CLERK

Tracey White

ASSISTANT CLERK

Roz Wheeler

LOCATION

Committee Room 5

Scottish Parliament

Health Committee

Tuesday 24 May 2005

[THE CONVENER *opened the meeting at 14:00*]

Item in Private

The Convener (Roseanna Cunningham): Good afternoon everybody and welcome to this meeting of the Health Committee. I ask everyone to ensure that their mobile phones are switched off so that we do not have interruptions during the meeting.

I have received apologies from Shona Robison, who is unable to attend due to a family emergency. Stewart Maxwell is attending the meeting and I ask him to confirm that he is in attendance in his capacity as a Health Committee substitute.

Mr Stewart Maxwell (West of Scotland) (SNP): Yes. I confirm that.

The Convener: I remind members that, under rule 12.2A of standing orders, a committee substitute has the right to participate in all proceedings and to vote.

The first item on the agenda is to consider whether to take item 4 in private in order to allow us to consider aspects of our forward work plan. Are we agreed?

Members *indicated agreement*.

Subordinate Legislation

Materials and Articles in Contact with Food (Scotland) Regulations 2005 (SSI 2005/243)

14:01

The Convener: Item 2 on the agenda is subordinate legislation. We have one instrument to consider today under the negative procedure. I welcome the Deputy Minister for Health and Community Care for the item.

The Subordinate Legislation Committee has commented on the regulations and its report has been circulated to members. I have received no comment from any member of the committee. In the absence of any such comment or request for information, I take it that the minister is happy not to say anything.

The Deputy Minister for Health and Community Care (Rhona Brankin): Yes.

The Convener: Are we agreed that we will make no recommendation on the regulations?

Members *indicated agreement*.

Smoking, Health and Social Care (Scotland) Bill: Stage 2

14:02

The Convener: Item 3 is consideration of the Smoking, Health and Social Care (Scotland) Bill at stage 2. I remind members that, as previously agreed, the committee will consider only amendments that relate to parts 3 and 4 of the bill at today's meeting. That means that only the first four groupings, which cover the dispensing of appliances, the drug tariff, directions on pharmaceutical care services contracts, and disqualifications by the national health service tribunal, will be debated today.

Section 18—Health Boards' functions: provision and planning of pharmaceutical care services

The Convener: The first group of amendments deal with the dispensing of appliances. The amendments are in the name of Shona Robison but, as Shona Robison's committee substitute, Stewart Maxwell will speak to and move them. Amendment 66 is grouped with amendments 67 and 68.

Mr Maxwell: First, I will say why the amendments were lodged. There appears to be confusion on the issue. The bill is unclear and confusing on the implications for the future supply of pharmaceutical care services.

Many stoma patients require a great deal of stoma care from their dispensing appliance contractors—or DACs. I am thinking not just of the supply of colostomy bags and appliances but of at-home fittings, maintenance and personal support by specialist stoma nurses, many of whom are funded by the industry.

The problem is that the bill contains provisions for excluding DACs from entering into further pharmaceutical care services contracts. That will preclude DACs from providing a number of essential services for NHS patients, yet there are no viable alternative providers of those services. The bill reads that any contractor is prohibited from entering into a pharmaceutical care service contract unless they provide what are referred to as "essential services". As the committee knows, those services will be defined in regulations. However, it appears that the term refers to operations that are considered integral to what a general pharmacist provides. It appears that a company that does not offer the full range of what are considered integral services for a pharmacist—for example, the dispensing of controlled drugs—could not enter into a contract for the supply of any pharmaceutical care services.

To a greater or lesser extent, the purpose of the amendments is to ensure that DACs would not be excluded from pharmaceutical care services contracts. The amendments are drafted to avoid cutting out those specialist providers at this legislative stage. The amendments would leave those measures out of the legislation to avoid unease.

The bill also requires the supply of any kind of pharmaceutical care service to be carried out or supervised by a registered pharmacist. That requirement has only ever been made of contractors who supplied controlled drugs. Given that DACs do not dispense controlled substances, they have never been subject to that requirement. I see no reason why the existing service should require a pharmacist's supervision. I therefore ask the committee to support the amendments.

I move amendment 66.

Dr Jean Turner (Strathkelvin and Bearsden) (Ind): It would be tragic if, because of the new arrangement for pharmaceutical services, the firms that have until now supplied people faced a problem. It would be tragic if in the new arrangements there was any hindrance to people who require stoma care getting a service that is custom designed for them. Stomas are as individual as the people. The type of appliance that the person uses is individual to them. If the person does not get the particular appliances that they are used to using, infection can often be a problem. If they have to make do with a substitute, there can be long-term implications. In this day and age, when we definitely do not want to break the skin and have infection, many of the people affected who were consulted prior to the introduction of the bill said that they were happy with the way things were going and were desperate that things should stay the same. I have had patients who found it extremely difficult to change when it seemed that another appliance was the only one that was available.

Many of these people go and pick up their prescriptions, which are very bulky—it is not a matter of going to get a small packet. Often the appliances are delivered to their house. Some pharmacies can do that, but others cannot. Some companies do it for them.

I seek reassurance from the minister that the changes that are being made in the bill will not disadvantage people who have very special needs. Those people do not want to become housebound or have to attend hospital for treatment because they cannot have the right appliance. They would have to go to hospital if they used the wrong appliances because those appliances might use adhesive to which they are allergic. I welcome the amendments.

Mrs Nanette Milne (North East Scotland) (Con): My concern lies with the network of stoma nurses. The briefing paper from the Executive states:

"The existing network of stoma nurses is considered by NHS boards to be appropriate to meet patient needs."

I am aware that a number of those nurses are currently funded by the stoma appliance providers. If that is no longer the case, will the health boards be in a position to employ the nurses or will the network become smaller because the boards will not be in a position to employ them?

Janis Hughes (Glasgow Rutherglen) (Lab): I concur with Jean Turner's point about patients who are used to particular appliances. Having nursed patients with stomas, I understand the difficulty of getting an appliance that suits the patient. Sometimes that takes a very long time. When the patient is used to an appliance they obviously want to continue to use it. That is important for the quality of life that patients with stomas achieve.

I know that there was a consultation process during which the views of users, among others, were considered, but I seek reassurance from the minister about the on-going care and provision of appliances that patients with stomas can expect under the new proposals.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I would like some confirmation from the minister. The issue is a controversial one. I am surprised that there are no national standards for ways in which a patient's stoma appliance needs are assessed. Can the minister comment on that? In addition, can she say whether the scope of the appliances that are now available will be reduced or increased by the proposals?

Helen Eadie (Dunfermline East) (Lab): Will the minister give us more details of the timescales for some of the actions that are mentioned in the briefing paper that we have received? The paper talks about the establishment of

"a National Steering Group to oversee the roll-out of an Action Plan leading to implementation of the new arrangements from April 2006."

People have told the committee of their concerns that existing patients should be able to use the appliance that they have found to be most appropriate for their condition, and that new patients should not be disadvantaged by the new arrangements. Will those requirements come into effect immediately?

The Convener: I think that that exhausts members' questions and comments.

Rhona Brankin: Amendments 66, 67 and 68 appear to have been founded on a misunderstanding of the intention behind the modernisation of the community pharmacy service.

The bill expands the role of the community pharmacist in the provision of enhanced pharmaceutical care services, including medication review arrangements for patients who have chronic conditions and regularly need repeat prescriptions. The bill will also provide a minor ailments service under which eligible patients will be able go straight to their pharmacist for advice and certain medications, rather than having to go to their general practitioner first.

Services must be delivered to clearly defined standards and by suitably qualified registered pharmacists working from registered premises. As a consequence, the provisions for the delivery of pharmaceutical care services have been developed distinctly. That will not cause any removal, diminution or attenuation of appliance supply services. That is important and it is the key aspect of the new arrangements that I think may have been missed by the appliance supply community.

Through alternative administrative arrangements and directions, the Executive will ensure that stoma services become a dedicated health care service in their own right. Currently, appliance suppliers have no recognised registration body. They work from premises that are not subject to regulation and to standards that have not been nationally agreed. That would lead to a mismatch in trying to define appliance supply services within the constraints of the provisions for pharmaceutical care services.

After a public consultation, we have determined a way forward to ensure that the current availability of services is maintained. Services will then be enhanced with the introduction of nationally agreed service standards. That answers Mr Rumbles's point.

The Executive has prepared an action plan and established a national steering group to oversee the implementation of the plan. The group comprises representatives of patients, appliance suppliers, stoma nurses and the national health service.

Through a letter from the Health Department, health boards have been instructed to review their current arrangements and establish local implementation groups, with full stakeholder representation, as part of the process leading to the changes that will come into effect from April 2006.

I am aware that the interpretation that some have placed on the new arrangements has given rise to concerns on the part of some patients and stoma nurses. As we have made clear on a number of occasions, patients will still have

access to stoma nurses and will still be able to source their prescribed appliance from their current supplier. It is intended that stoma nurses will continue to be the patient's champion throughout their stoma care journey from the hospital to the community. That status of nurses is well acknowledged and will be reinforced.

All the new arrangements can be delivered within the legislative framework. Consequently, I invite Mr Maxwell to withdraw amendment 66 and not to move the other amendments in the group.

The Convener: Stewart, would you like to press amendment 66 or seek agreement to withdraw it?

Mr Maxwell: May I first comment on what the minister has said?

The Convener: Yes, of course.

Mr Maxwell: I am reassured to an extent by what the minister has said. It has been extremely helpful and I will not move the amendments at this stage.

The Convener: You have already moved amendment 66.

Mr Maxwell: On the basis of what the minister has said I will not move amendments 67 and 68. Hopefully we can clarify any outstanding issues before stage 3, so that everyone is aware of what the situation is.

The Convener: Do you wish to withdraw amendment 66?

Mr Maxwell: Yes.

Amendment 66, by agreement, withdrawn.

14:15

The Convener: Amendment 15, in the name of the minister, is grouped with amendments 16 and 19 to 22.

Rhona Brankin: The bill makes a number of references to the drug tariff. The drug tariff already exists and specifies the fees, allowances and reimbursement details for the current pharmaceutical services contracts. More particularly, and by way of example, it details the method by which the prices of listed and other drugs are calculated for reimbursement purposes. It defines the standards of quality of drugs that can be dispensed and lists the dental and nurse prescribing formularies. The amendments make it an explicit requirement of primary legislation that Scottish ministers produce such a document. Currently, that is left to regulations. The intention is to make clear the status and purposes for which the drug tariff must or may be used for directions that relate to the provision of pharmaceutical care services. Amendment 19 places into primary legislation a requirement on ministers to publish and maintain the drug tariff. It also clarifies the status of the document as a vehicle in which information relating to pharmaceutical care services must be published and in which relevant directions may be published.

Amendments 15 and 20 to 22 are consequential on amendment 19 and are concerned with amending the definitions and references to the drug tariff elsewhere in the bill. Amendment 16 provides further detail on the way that Scottish ministers will issue directions regarding payments made under pharmaceutical care services contracts.

I move amendment 15.

Amendment 15 agreed to.

Section 18, as amended, agreed to.

Section 19—Pharmaceutical care services contracts

Amendments 67 and 68 not moved.

Amendment 16 moved—[Rhona Brankin]—and agreed to.

The Convener: Amendment 17, in the name of the minister, is grouped with amendment 18.

Rhona Brankin: Amendments 17 and 18 widen the scope of the powers through which ministers can prescribe the manner and standards of the new pharmaceutical care services contracts. The existing power is limited to directing on dispensing. The new PCS contracts will deliver a wider range of services. The services are to be provided to the same standards throughout Scotland, and the bill provides that compliance with the stated standards will be a condition of PCS contracts. That will accord with the committee's recommendations in its stage 1 report.

I move amendment 17.

Amendment 17 agreed to.

Amendment 18 moved—[Rhona Brankin]—and agreed to.

Section 19, as amended, agreed to.

After section 19

Amendment 19 moved—[Rhona Brankin]—and agreed to.

Section 20—Persons performing pharmaceutical care services

Amendments 20 and 21 moved—[Rhona Brankin]—and agreed to.

Section 20, as amended, agreed to.

Section 21 agreed to.

Section 22—Disqualification by the NHS Tribunal

The Convener: Group 4 is on disqualification by the NHS tribunal. Amendment 34, in the name of the minister, is grouped with amendments 35, 41, 48 and 55.

Rhona Brankin: Amendments 34, 35, 41, 48 and 55 are technical, minor and consequential amendments to the discipline provisions of the bill that relate to the NHS tribunal. Section 22 contains a list of the new lists of persons who are subject to the jurisdiction of the NHS tribunal. To make it clear that a practitioner need be only on, or applying to be on, a list for the services that they perform, provide or assist in providing, amendment 34 follows the legal drafting convention and will insert an "or" between the final two types of list.

Amendment 35 will provide that, in addition to a practitioner who provides or performs services, a practitioner who assists in the provision of services can be referred to the NHS tribunal if fraud of the health service is committed or attempted by another person who is acting on the practitioner's behalf and the practitioner has failed to take reasonable steps to prevent that from happening.

Amendment 41 is consequential on the main provisions of the bill on the listing of family health service practitioners. In future, all family health service practitioners will be required to be listed before they can perform. The bill therefore repeals the provision on declarations of unfitness in the National Health Service (Scotland) Act 1978, as it is no longer necessary. Amendment 41 will remove a further reference to declarations of unfitness in the 1978 act.

Amendment 48 will insert a repeal in schedule 3—it will remove wording in section 29A(5) of the 1978 act that is no longer required as a consequence of the provisions for new listing arrangements in parts 2 and 3 of the bill. Similarly, amendment 55 will add a further consequential repeal to schedule 3 by removing redundant wording in the Community Care and Health (Scotland) Act 2002.

I move amendment 34.

Amendment 34 agreed to.

Amendments 35 and 12 moved—[Rhona Brankin]—and agreed to.

Section 22, as amended, agreed to.

Section 23 agreed to.

The Convener: That ends today's consideration of the bill at stage 2, which may be something of a record. The target for next week's meeting is to complete consideration of sections 24 to 30. The deadline for amendments to those sections has already expired—it was earlier than usual because of the holiday weekend.

That ends our public business for today.

14:24

Meeting continued in private until 14:41.

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