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DS

National
Health

19 June 1979

The Prime Minister has seen your letter of 15 June, responding to my enquiry about your Secretary of State's intentions on the Health Services Board. She is pleased to note the proposals for abolition which are now under consideration.

M.A. PATTISON

Don Brereton, Esq.,
Department of Health and Social Security.





DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Secretary of State for Social Services

1 PRIME MINISTER
CC Gort Mailing (Quangos) May 74
2.
You asked what Mr Jenkin intended to do about the Health Services Board. You will see that he has abolition in hand.
NAD
18/vi.

15 June 1979

Tim Lankester Esq
Private Secretary
10 Downing Street
LONDON
SW1

Dear Tim,

I promised to let you know, in the context of the review of "Quangos", the position in relation to the Health Services Board. I attach a copy of a letter which my Secretary of State has sent today to the Home Secretary, setting out the arrangement proposed for consulting on the legislation to be introduced on private medical practice in hospitals. You will see from paragraph 2 of the proposed consultation letter that part of the proposals is to abolish the Health Services Board, leaving local management to determine the limit to which NHS facilities can be made available to other than NHS patients. We envisage that legislation will be introduced as soon as possible after the Summer Recess.

Good

Yours sincerely

D Brereton
Private Secretary

ENC.



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From the Secretary of State for Social Services

The Rt Hon William Whitelaw CH MC MP
 Secretary of State for the Home Department
 Home Office
 50 Queen Anne's Gate
 London SW1

June 1979

Dear Colthe,

PRIVATE PRACTICE

I am now ready to start consultations on the Government's plans to introduce legislation on private medical practice in hospitals, and I enclose a copy of the consultative letter which we have in mind to send to health authorities, the major health professional bodies, the private sector organisations, the TUC and NHS Whitley Council Staff Side. I am proposing two stages of consultation, the present one on the contents of legislation and a second stage on the details to be set out in regulations or promulgated administratively. This is necessary because of the urgency of introducing legislation on which nevertheless we are committed to consultation.

You will see that I am looking for legislation as soon as possible after the Summer Recess and I shall be seeking the agreement of colleagues to this after completion of the first round of consultation. I must give advance warning that a timetable motion may be necessary but I will be making the case for this when my proposals are firm.

I now need to issue the letter quickly both to allow as much time for consideration as possible and because I would like it to reach the British Medical Association before their Annual Representative Meeting next week. I propose to issue the letter with a press notice and to place it in the House unless I hear that colleagues have reservations.

I am copying this to the other members of H Committee and Sir John Hunt.

*Yours
 R
 Pater*

AB
DRAFT CONSULTATION LETTER ON PRIVATE PRACTICE

1. The Government have been considering how best to put into practice their policy referred to in the manifesto of freeing NHS private hospital practice from the enforced reductions of the Health Services Act and of encouraging co-operation rather than confrontation between the public sector and the private sector of medicine. The method must be consistent with the main principles that:

- (a) people who wish to do so should be free to make arrangements for their private medical treatment.
- (b) there should be the maximum delegation to local health authorities of responsibility in respect of services in that locality.
- (c) central government should only intervene when necessary; such decisions should be taken by Ministers answerable to Parliament.

The Government intends to introduce legislation as soon as possible after the Summer Recess. The purpose of this letter is to set out the main lines it is expected to follow. Later on you will be consulted about the detailed arrangements mentioned below, some of which would be set out in Regulations; others would be the subject of Departmental guidance.

private practice in NHS hospitals

2. The chief purpose will be to restore the Secretary of State's discretion to allow NHS hospital facilities to be made available for private patients. The Health Services Board with its function of phasing out NHS private facilities will be abolished and the arrangements (never in fact implemented) for some residual private practice in specialised cases will not be needed. However the Government does not think it would be acceptable that there should be no ceiling on private practice within the NHS. There will therefore be provision for determining the limits to which NHS facilities can be made available to other than NHS patients. The Government propose that this function should be exercised by local management. Legislative provision will be retained that services for private patients should not prejudice services for NHS patients.

3. The new arrangements will allow early changes in the present level of authorisations where circumstances justify them. But they do not necessarily mean that authorisations withdrawn under the previous Government will be restored. New private sector facilities have been provided and the pattern of demand for NHS provision has altered. In any case many of the authorisations were withdrawn on the basis that they were not being used. The Government expects that for the time being authorisation will remain at about their present level in most places.

4. Although the Secretary of State will delegate responsibility for authorising NHS facilities, he will retain residual control. The main purpose of this will be so that he can settle disputed cases. The Government propose a small non-statutory committee to advise the Secretary of State on private practice generally and from whom he could obtain advice on individual cases of this kind. The details of the arrangements for referring to the Secretary of State are one of the subjects for later consultation.

Private practice in private sector hospitals

5. Private hospitals and nursing homes are registered by AHAs on behalf of the Secretary of State under the Nursing Homes Act, 1975. At present new acute hospitals are notified to the Health Services Board and the larger ones need the Board's authorisation. The Government believe that the registration system to maintain standards of accommodation and staffing has in general worked well, although they are prepared to take the opportunity to make minor amendments to the Act and they intend new Regulations in due course.

6. As a basis for the co-operative development of hospital facilities for private practice at local level, the Government propose provision for advance notification to AHAs of all significant private hospital developments at the planning stage. This will be followed by local consultation whose objective will be to ensure the orderly and effective development of health services in the locality. Where there is local agreement this will usually be a sufficient basis for a development to proceed. If there is disagreement the matter will be referred to the Secretary of State for a decision. It is proposed that, initially at least, the very largest developments and any containing certain highly specialised facilities should invariably be referred to the Secretary of State before final decisions are taken.

LMS.
7. The method of consultation will need to be worked out locally, and may differ from place to place. In localities where a range of private facilities is proposed it will be desirable to arrange for joint discussion of the whole future pattern, including the authorised level of NHS facilities. Elsewhere a simpler approach can be expected to suffice.

8. The legislation will need to give the Secretary of State power to reject or impose conditions on private developments. The intention is that this power which would not be delegated, would be exercised rarely. The new legislation will probably include a broad definition of the developments to which the residual control of the Secretary of State would apply and the criteria he would use for approval. The details of the procedure could be set out in Regulations, and these will be the subject of later consultation.

Co-operation between the NHS and the private sector and the balance between them

9. The Government look not only for a fresh approach of consultation between AHAs and the private sector in the planning field as set out above but for development of joint schemes to the benefit of both parties. This could indeed increased use of contractual arrangements, in both directions, and there are potential benefits from joint provision of services, sharing of some staff and possibly collaboration in research. The Government also believes that there is scope for considerable expansion of the private sector's contribution to staff training. Most of this can be undertaken without legislative provision but the Secretary of State will need power to assist private hospitals to provide services and to take part in collaborative projects with them. The setting up of such contracts and schemes would remain a matter for the local NHS authority to work out with the private sector as part of their planning within the resources allocated to them.

10. The Government's view is that it will be of benefit to the NHS for private practice facilities normally to be available to the extent that consultant staff and patients wish to use them. Such patients contribute resources which will allow local NHS hospitals to provide facilities and amenities not otherwise possible. The Government believe however that private patients should not be judged by different standards of medical priority from NHS patients, nor should they be given a higher standard of care. The arrangements for private practice

in NHS hospitals must operate, and be seen to operate, fairly. The Government will be discussing with representatives of the medical profession ways in which this can be achieved, including the possible extension of common waiting lists beyond the categories already covered by them. However it is not yet clear to the Government whether the extension of common waiting lists is a practicable proposition and they propose that the local discussions on this, initiated by the previous Government, should continue.

11. The private hospital sector has become stronger in recent years, providing facilities in many towns throughout the country. Where there are such private facilities it is to be expected that NHS beds will be used mainly for cases requiring the special facilities of a district general hospital, and for emergencies. But although the Government wish to encourage private provision they do not propose to lay down a rigid pattern from the centre, since it is best for each locality to decide what NHS provision and what independent provision to plan for.

Comments

12. This letter sets out the Government's main approach and their intentions for legislation. Any comments on the legislative aspects are needed by the end of July. Comments on the detail of the arrangements should be held back until the second round of consultations.