



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Duties and powers to meet needs*

#### **22 Exception for provision of health services**

- (1) A local authority may not meet needs under sections 18 to 20 by providing or arranging for the provision of a service or facility that is required to be provided under the National Health Service Act 2006 unless—
  - (a) doing so would be merely incidental or ancillary to doing something else to meet needs under those sections, and
  - (b) the service or facility in question would be of a nature that the local authority could be expected to provide.
- (2) Regulations may specify—
  - (a) types of services or facilities which, despite subsection (1), may be provided or the provision of which may be arranged by a local authority, or circumstances in which such services or facilities may be so provided or the provision of which may be so arranged;
  - (b) types of services or facilities which may not be provided or the provision of which may not be arranged by a local authority, or circumstances in which such services or facilities may not be so provided or the provision of which may not be so arranged;
  - (c) services or facilities, or a method for determining services or facilities, the provision of which is, or is not, to be treated as meeting the conditions in subsection (1)(a) and (b).
- (3) A local authority may not meet needs under sections 18 to 20 by providing or arranging for the provision of nursing care by a registered nurse.

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*Status: This is the original version (as it was originally enacted).*

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- (4) But a local authority may, despite the prohibitions in subsections (1) and (3), arrange for the provision of accommodation together with the provision of nursing care by a registered nurse if—
- (a) the authority has obtained consent for it to arrange for the provision of the nursing care from whichever clinical commissioning group regulations require, or
  - (b) the case is urgent and the arrangements for accommodation are only temporary.
- (5) In a case to which subsection (4)(b) applies, as soon as is feasible after the temporary arrangements are made, the local authority must seek to obtain the consent mentioned in subsection (4)(a).
- (6) Regulations may require a local authority—
- (a) to be involved in the specified manner in processes for assessing a person's needs for health care and for deciding how those needs should be met;
  - (b) to make arrangements for determining disputes between the authority and a clinical commissioning group or the National Health Service Commissioning Board about whether or not a service or facility is required to be provided under the National Health Service Act 2006.
- (7) Nothing in this section affects what a local authority may do under the National Health Service Act 2006, including entering into arrangements under regulations under section 75 of that Act (arrangements with NHS bodies).
- (8) A reference to the provision of nursing care by a registered nurse is a reference to the provision by a registered nurse of a service involving—
- (a) the provision of care, or
  - (b) the planning, supervision or delegation of the provision of care,
- other than a service which, having regard to its nature and the circumstances in which it is provided, does not need to be provided by a registered nurse.
- (9) Where, in a case within subsection (4), the National Health Service Commissioning Board has responsibility for arranging for the provision of the nursing care, the reference in paragraph (a) of that subsection to a clinical commissioning group is to be read as a reference to the Board.
- (10) For the purposes of its application in relation to the duty in section 2(1) (preventing needs for care and support), this section is to be read as if references to meeting needs under sections 18 to 20 were references to performing the duty under section 2(1).