

## Department of Health and Social Care consultation on the licensing of non-surgical cosmetics in England – Stakeholder briefing

October 2023

### 1. Overview

- 1.1 The Government is currently [consulting](#) on introducing a licensing scheme for non-surgical cosmetic procedures in England.
- 1.2 The Professional Standards Authority (PSA) supports the introduction of a licensing scheme and is encouraging all interested stakeholders to respond to the consultation which is open until **28 October 2023**.
- 1.3 This briefing outlines the key points that the PSA will be making in its response to the consultation. We are sharing this with stakeholders with a view to informing and supporting responses to the consultation.
- 1.4 We will also be publishing our full response prior to the end of the consultation period.

### 2. Key points

- We support the introduction of a licensing scheme to ensure that those who choose to undergo a non-surgical cosmetic procedure can be confident that the treatment they receive is safe and of a high standard
  - Ahead of the introduction of a licensing scheme we are encouraging those seeking non-surgical cosmetic procedures to choose a practitioner on a register accredited under our [Accredited Registers programme](#)<sup>1</sup>
  - We also encourage all eligible non-surgical cosmetic practitioners to join an Accredited Register to demonstrate their competence and reduce risk to the public.
- 2.1 On the areas within the consultation:
- We think it is important that the licensing scheme is simple and transparent to allow the public to easily understand requirements when choosing who to receive non-surgical cosmetic treatments from
  - If the tiered system (red, amber, green) for non-surgical procedures of different levels of risk is implemented, then clear communications will be needed on what members of the public need to look for when seeking to access different kinds of treatments safely

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<sup>1</sup> The PSA has accredited two registers for non-surgical cosmetic practitioners [Save Face](#) and the [Joint Council for Cosmetic Practice \(JCCP\)](#). Accreditation provides assurance to the public and employers that practitioners are subject to high standards of competence and are covered by robust complaints processes, helping to ensure that people receiving care are better protected.

- We support proposals in the consultation to set a minimum age of 18 for access to non-surgical cosmetic procedures
- We support proposals to remove particularly high risk procedures from the scope of the licensing scheme and bring them under additional regulatory oversight
- We think that there should be clear criteria for classifying non-surgical procedures as high, medium and low risk (red, amber, green) to allow this approach to be future-proofed and flexible to incorporate new and evolving procedures
- We think that, if possible, the scheme should recognise and complement existing regulatory mechanisms such as the Accredited Registers programme which is already acting to raise standards in the area of non-surgical cosmetics
- It will be important to ensure alignment of approach across the UK as far as possible, noting that action in this area is a devolved matter.

### **3. Comments on the different areas within the consultation**

#### **Restriction of cosmetic procedures**

- 3.1 We support in principle proposals to remove particularly higher-risk procedures from the scope of the licensing scheme (those in the 'red' category in the consultation) and apply a higher level of oversight. In the consultation, it is proposed to bring these procedures under Care Quality Commission (CQC) regulation as 'regulated activities' and to restrict them to be carried out only by qualified and regulated healthcare professionals.
- 3.2 However, it would be helpful to understand how this will work in practice. CQC's regulated activities legislation relates to services rather than individuals so clarity on how proposals will fit with the existing CQC approach and the existing professional regulatory requirements in place through the healthcare professional regulators will be important.
- 3.3 It would also be important to clarify whether all statutorily regulated healthcare professionals will be eligible to carry out such procedures or whether this will be limited to those where such procedures are more obviously within their scope of practice.
- 3.4 We think it would be helpful for there to be clear criteria on what should be included within the 'red' category and therefore falls outside of the licensing scheme. This will allow consideration of whether further treatments should be brought across from the other categories or whether future treatments which enter the market should be similarly restricted. It would also be helpful for there to be clarity on the process for updating the risk rating and the procedures that will fall into each category.

## Procedures in scope of the licensing scheme

- 3.5 We can see benefits in introducing a tiered system within the licensing scheme to account for the fact that certain procedures are higher risk than others and may require greater oversight.
- 3.6 However, we suggest that the DHSC carefully considers whether this approach is likely to be sufficiently clear to members of the public who will need to understand it in order to make informed choices about who they choose to treat them.
- 3.7 If the tiered system is implemented, then clear communications will be needed to help members of the public understand what to look for when seeking treatments within each different category to avoid confusion.
- 3.8 As with our comments on the 'red' category of procedures which will fall outside of the licensing scheme, we think that DHSC should define criteria for placing a procedure in the 'green' (low risk) or 'amber' (medium risk) category. This will be important to ensure consistency of approach in how procedures are classified and will also help with future proofing so that new and developing procedures can be classified appropriately in the future.
- 3.9 We think that further clarification is needed in relation to proposals for the amber category (medium risk) which specifies a range of procedures which can only be carried out by a licensed practitioner: 'with relevant oversight by a named, regulated healthcare professional (who has gained an accredited qualification to prescribe, administer and supervise aesthetic procedures)'.
- 3.10 Our queries on this include:
- What is meant by regulated healthcare professional and how will the holding of an accredited qualification be enforced?
    - Will all statutorily regulated professionals be in scope, or will this be limited to those whose scope of practice more obviously relates to the carrying out of non-surgical cosmetic procedures? For example, the Botulinum Toxin and Cosmetic Fillers (Children) Act 2021 lists registered nurses, dentists and pharmacists alongside medical professionals as being within the scope of the regulated professionals who might have legitimate reason to administer specified substances.<sup>2</sup>
    - Who will enforce the requirement for statutorily regulated professionals providing oversight of non-surgical cosmetic procedures to hold an accredited qualification?
  - What is meant by 'relevant oversight'?
    - Will clinics providing such treatments be required to have an appropriate regulated professional on site at all times?
    - What level of involvement will the supervising regulated healthcare professional have in client consultations and treatments?

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<sup>2</sup> Botulinum Toxin and Cosmetic Fillers (Children) Act 2021:  
<https://www.legislation.gov.uk/ukpga/2021/19/section/1/enacted>

- How do current rules and approaches taken by the statutory professional regulators around prescribing fit with this model?
  - As it stands, some regulators and professional bodies prevent or discourage registrants from using their prescribing rights for anything outside their primary scope of practice
  - There are also different approaches around remote prescribing.

### Minimum age of client

- 3.11 We fully support introducing a minimum age of 18 for accessing the non-surgical cosmetic procedures within the scope of the licensing scheme.
- 3.12 This is in line with the restrictions previously introduced by the Government on providing botulinum toxin and cosmetic fillers in 2021<sup>3</sup> and it is an important way of ensuring that those seeking non-surgical cosmetic procedures are old enough to make informed decisions about potentially significant procedures.

### Other issues

- 3.13 It would be helpful to have further clarity on who will be required to hold a licence under the scheme. We note the approach consulted upon by the Welsh Government within their consultation on licensing of special procedures in Wales of proposing exemptions for statutorily regulated healthcare professionals but not qualified practitioners on a PSA Accredited Register. We would like to emphasise the value of the Accredited Registers programme in raising standards and we think this should be taken into account when considering how the licensing scheme interacts with such requirements which are already in place.
- 3.14 Similarly, it would be helpful to understand how the requirement for a premises licence will fit with existing regulatory requirements. A number of clinics offering non-surgical cosmetic procedures are already likely to be CQC registered if they also offer other types of procedures.
- 3.15 We think it is important to ensure alignment of approach across the UK as far as possible, noting that action in this area is a devolved matter. As it stands, the DHSC are not proposing to include in the licensing scheme for England the special procedures that the Welsh Government has recently consulted on requiring a licence for including acupuncture. However, as members of the public may access services in any part of the UK and registrants may practise across the UK, we would urge further consideration of whether greater consistency is possible.
- 3.16 It would be helpful to understand how licensing proposals might link with other regulatory developments to address the range of risks present in the non-surgical cosmetics sector. This includes the recent consultation by the Medicines and Healthcare products Regulatory Agency (MHRA) which looked at extending medical device regulations to products commonly associated with

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<sup>3</sup> Botulinum Toxin and Cosmetic Fillers (Children) Act 2021:  
<https://www.legislation.gov.uk/ukpga/2021/19/section/1/enacted>

cosmetic procedures such as microneedling products and dermal fillers.<sup>4</sup> It will be important that proposals for the licensing scheme complement other regulatory changes and that interventions are appropriately targeted at the different types of risks present within the sector.

- 3.17 Similarly, it would be useful to confirm that the licensing scheme doesn't intend to duplicate other regulatory safeguards that are already in place for certain non-surgical cosmetic procedures – for example tooth whitening which is regulated by the GDC.<sup>5</sup>
- 3.18 As well as the clarity of the tiered system proposed, further consideration may be needed on how the scheme can be made accessible and navigable for members of the public searching for a licensed practitioner. For example, would a national register of licensed practitioners be required?

## 4. About us

- 4.1 The Professional Standards Authority for Health and Social Care (PSA) promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and social care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)
- 4.2 As part of our work we:
- Oversee the 10 health and care professional regulators and report annually to Parliament on their performance
  - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
  - Conduct research and advise the four UK governments on improvements in regulation
  - Promote right-touch regulation and publish papers on regulatory policy and practice.

## 5. Further information

- 5.1 For further information or to follow up on any part of this briefing please get in touch at: [engagement@professionalstandards.org.uk](mailto:engagement@professionalstandards.org.uk)

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<sup>4</sup> Consultation on the future regulation of medical devices in the United Kingdom: <https://www.gov.uk/government/consultations/consultation-on-the-future-regulation-of-medical-devices-in-the-united-kingdom/outcome/chapter-1-scope-of-the-regulations#section-2---products-without-an-intended-medical-purpose>

<sup>5</sup> General Dental Council, Tooth whitening and illegal practice: <https://www.gdc-uk.org/standards-guidance/information-for-patients-public/tooth-whitening-and-illegal-practice>