

The Health, Social Care and Sport Committee call for evidence on the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill

1. About us

- 1.1. The Professional Standards Authority for Health and Social Care (PSA) is the UK's oversight body for the regulation of people working in health and social care. Our statutory remit, independence and expertise underpin our commitment to the safety of patients and service-users, and to the protection of the public.
- 1.2. There are 10 organisations that regulate health professionals in the UK and social workers in England by law. We audit their performance and review their decisions on practitioners' fitness to practise. We also accredit and set standards for organisations holding registers of health and care practitioners not regulated by law.
- 1.3. We collaborate with all of these organisations to improve standards. We share good practice, knowledge and our right-touch regulation expertise. We also conduct and promote research on regulation. We monitor policy developments in the UK and internationally, providing guidance to governments and stakeholders. Through our UK and international consultancy, we share our expertise and broaden our regulatory insights.
- 1.4. Our core values of integrity, transparency, respect, fairness, and teamwork, guide our work. We are accountable to the UK Parliament. More information about our activities and approach is available at www.professionalstandards.org.uk

2. Detailed comments

Part 1 of the Bill: Non-surgical procedures

1. In your view, what impact will the Bill have on:

a. People wishing to access non-surgical procedures detailed in Schedule 1?

- 2.1. The PSA supports the Bill's intent to restrict access to higher and medium-risk procedures to adults and in regulated settings. This should enhance public confidence and safety as outlined in our answer below.

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- 2.2. However, it may reduce availability in informal or lower-cost settings, potentially affecting access to safe treatments for lower-income individuals. We recommend that implementation be accompanied by public education and clear guidance to ensure understanding and compliance and to avoid the risk that workarounds or loopholes are sought by those seeking to access procedures.

b. The level of risk to people who wish to access these procedures?

- 2.3. The Bill should reduce risk to the public through:
- Prohibition on access to certain types of non-surgical cosmetic procedures for under-18s (Section 2) which will prevent younger and more vulnerable people access potentially risky treatments.
 - Requirement for medium and higher-risk procedures to be carried out only in “permitted premises” (Sections 3 and 4) which will ensure that such treatments are largely only carried out within premises regulated by Health Improvement Scotland (HIS) which will ensure that appropriate standards of safety are maintained.
- 2.4. These provisions align with the PSA’s **Right Touch Regulation** principles and our previous submissions on the need for coherent, risk-based regulation.
- 2.5. However, as well as increasing safeguards in place for higher-risk procedures it will be important for the Scottish Government to move forward swiftly with plans to introduce a licensing scheme for medium and lower-risk procedures as consulted upon earlier this year. Powers outlined under Section 5 will provide Scottish Ministers with the ability to introduce further measures in relation to non-surgical procedures.
- 2.6. There is the potential that an increase in regulation for medium and higher-risk procedures, as outlined in this Bill, may drive consumers to seek out less tightly regulated alternatives which could result in a surge in popularity for lower risk procedures which are not yet regulated¹. This may increase consumer risks in this area. A variable approach across the different countries of the UK could have a similar effect of encouraging consumers to take part in ‘cosmetic tourism’. However, a coordinated four-country approach could help to achieve consistency and clarity for practitioners and the public.
- 2.7. To mitigate these risks, ahead of the introduction of any licensing scheme, we are encouraging all eligible non-surgical cosmetic practitioners, across the UK, to join an **Accredited Register** to demonstrate their competence and reduce risk to the public. The AR scheme provides assurance to the public and employers that practitioners on the registers within it are subject to high standards and are covered by robust complaints processes, helping to ensure that people receiving care are better protected. There are currently two registers of non-surgical cosmetic practitioners within the scheme, **Save Face** and the **Joint Council for Cosmetic**

¹ It is our understanding that these would include procedures which are within scope of the planned licensing scheme – those which only have a penetrating effect into the viable epidermis and do not involve the use of any product that is carried by or passes through needles or blades used in the procedures (subject to exclusions outlined by the Scottish Government, such as tattooing which is already covered by licensing requirements).

Practice (JCCP).

- 2.8. The effectiveness of the AR scheme lies in awareness, and we would welcome further support from the Scottish Government (as well as the other UK health departments) to increase visibility of the programme amongst members of the public, and practitioners.
- 2.9. As further restrictions are introduced for different categories of non-surgical cosmetic procedures, there will also need to be consideration about how these fit with pre-existing regulatory mechanisms including the safeguards offered by the Accredited Register programme.

c. Local businesses and individual practitioners?

- 2.10. The Bill is likely to have mixed impacts:
- Businesses operating outside permitted premises or without appropriate qualifications may face closure or need to adapt to come within the necessary HIS regulatory framework.
 - Those already operating within regulated frameworks may benefit from increased consumer trust and a more level playing field.
- 2.11. As noted above, there is the potential that an increase in regulation for medium and higher-risk procedures may drive consumers to seek out less tightly regulated alternatives such as lower risk procedures. Although this may provide superficial benefits to businesses and practitioners providing such treatments this may also increase risks to the public.
- 2.12. We recommend support for practitioners and businesses to transition to compliant models as well as a robust public information campaign to try to mitigate the risks associated with a possible surge in demand for lower-risk procedures by suggesting that the public choose a practitioner who is on a relevant Accredited Register.

d. Organisations and staff who currently operate within a premises that meets the definition of permitted premises?

- 2.13. For organisations already registered with HIS or operating in NHS-linked settings, the Bill formalises existing standards therefore these providers are likely to experience minimal disruption.
- 2.14. However, if there is an increase in consumers seeking out lower-risk procedures if access to medium and higher-risk procedures is tightened (as we have suggested above is a possibility) then this could lead to an increase in patient safety incidents in this unregulated portion of the market.
- 2.15. There is therefore the potential that HIS registered premises or other parts of the health service may experience an increase in demand to deal with any patient safety incidents arising through provision of lower risk procedures in premises outside the scope of the proposed restrictions.

2. What are your views on inspection, offences and enforcement powers set out in the Bill? For example, do you think they are fair and appropriate?

- 2.16. We support these powers as necessary to uphold public safety and ensure compliance, but are not in a position to comment in detail on the effectiveness of enforcement powers outlined. We recommend that enforcement is accompanied by

education and support for practitioners to ensure they fully understand the consequences of non-compliance.

3. Do you have any further comments about Part 1 of the Bill?

- 3.1. The PSA supports the overall aims of Part 1 of the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill and believes it represents a significant step forward in protecting the public from harm associated with non-surgical cosmetic procedures.
- 3.2. As additional safeguards are introduced, it will be important to align regulations across the UK as much as possible to prevent cosmetic tourism or confusion for consumers and/or professionals about the regulatory framework. As it stands there are likely to be some differences between the frameworks proposed for Scotland and England. It will also be important to ensure integration with existing regulatory mechanisms, including statutory regulation and the PSA's Accredited Registers programme.
- 3.3. We encourage the Committee to consider the Bill's impact on equality, particularly for groups disproportionately affected by cosmetic pressures (e.g. young women), and to ensure access to safe procedures is not unduly restricted for marginalised communities.
- 3.4. We welcome the opportunity to contribute to the Bill's development and implementation and remain committed to supporting coherent, risk-based regulation across the UK.