



DRIVING
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SICRHAU
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AROLYGU ANNIBYNNOL
A GWRTHRYCHOL

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Response to the consultation on the Public Health (Wales) Bill

Healthcare Inspectorate Wales (HIW) welcomes the opportunity to contribute evidence to the consideration of the general principles of the Public Health (Wales) Bill.

The role of HIW is set out at Annex 1.

Part 2: Tobacco and Nicotine Products

Part 2 of the Bill includes provisions relating to tobacco and nicotine products, these include placing restrictions to bring the use of nicotine inhaling devices (NIDs) such as electronic cigarettes (e-cigarettes) in line with existing restrictions on smoking; creating a national register of retailers of tobacco and nicotine products; and prohibiting the handing over of tobacco or nicotine products to a person under the age of 18.

HIW does not have a specific view on Part 2.

Part 3: Special Procedures

Part 3 of the Bill includes provision to create a compulsory, national licensing system for practitioners of specified special procedures in Wales. These procedures are acupuncture, body piercing, electrolysis and tattooing.

- What are your views on creating a compulsory, national licensing system for practitioners of specified special procedures in Wales, and that the premises or vehicle from which the practitioners operate must be approved?

However, it will be important to align the language used in this Bill to the language used in other proposed legislation relating to regulation and inspection. The language used in both the recent Regulation and Inspection of Social Care (Wales) Bill and the 'Our Health, Our Health Service' Green Paper identifies a move towards registration and inspection based on 'services' rather than 'establishments'. In proposing to create a licensing

system for individual practitioners and approving the premises or vehicle from which the practitioner operates, this Bill appears to have taken a different approach to regulation.

HIW is responsible for the registration and inspection of services where a Class 3B or 4 laser or Intense Pulse Light (IPL) machine is used. Such equipment can sometimes be found in establishments who undertake tattooing, as tattoo removal can be conducted using a laser. HIW ensures that these services comply with the requirements of the Care Standards Act 2000, the Independent Health Care (Wales) Regulations 2011 and the National Minimum Standards for Independent Health Care Services in Wales.

HIW conducts a pre-registration visit to these establishments to ensure the safety of the premises and to ensure that policies and procedures are in place to protect patients. HIW then conducts inspections every three years, when we review the service provided to individuals, including infection *prevention and* control procedures.

Under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Local Government Act 2003, local authorities are responsible for regulating and monitoring businesses offering body piercing and tattooing. Local authorities have the powers to inspect any premises that carry out piercing or tattooing, to make sure that they are observing local byelaws that relate to the hygiene of their premises, staff and equipment.

There is therefore overlap between the work of the local authority in monitoring businesses offering tattoos, and HIW's work in inspecting premises where there is a laser/IPL in use. HIW has established links with some local authorities who share intelligence about tattoo or body piercing establishments in their area who use lasers.

Consideration will need to be given to ensuring that any new system proposed under this Bill operates efficiently. Providers will need clarity as to where they need to register, and as to which standards they are expected to meet. The public will require clarity as to where the service should be registered, and which public body will be monitoring it. There will also need to be clarity to avoid two public bodies monitoring the same service at the same time.

The focus of this Bill is on managing health related risks so the individuals assessing the practitioner's suitability for a licence, and the premises from where they operate, will need to have expertise in assessing standards of infection control.

HIW believes there are benefits in creating a compulsory licensing system for practitioners of special procedures. A national register would be helpful as all information would be held in one place.

- [Do you agree with the types of special procedures defined in the Bill?](#)

HIW acknowledges the potential risks associated with the types of special procedures defined in the Bill. However, there are other procedures not currently subject to regulation which could also be considered. For example, skin treatments such as botox, dermal fillers and chemical peels. Services providing these treatments are not required to register with HIW under the Independent Health Care (Wales) Regulations 2011. HIW notes that the UK Government is considering legislation in respect of cosmetic interventions.

- [What are your views on the provision which gives Welsh Ministers the power to amend the list of special procedures through secondary legislation?](#)

It will be important for Ministers to have flexibility to include new procedures to the list of special procedures, so that they can be subject to the same licensing scheme and patients can be assured of the safety of the services they receive. However, we question whether there is a need for the special procedures to be itemised in this primary legislation. It may be more appropriate to define the list in secondary legislation so that it can be amended more easily should changes be required.

- [The Bill includes a list of specific professions that are exempt from needing a licence to practice special procedures. Do you have any views on the list?](#)

Although the list of exempted individuals includes professions who should have received sufficient training in, for example, infection *prevention and control*, there is no requirement for training relating to these special procedures. Registration with a professional body such as the General

Chiropractic Council, does not automatically equate to fitness to practise a procedure such as acupuncture.

- Do you have any views on whether enforcing the licensing system would result in any particular difficulties for local authorities?

The licensing system should be effective for legitimate individuals and premises. However, there will be challenges for local authorities in identifying those providers of services who are practising 'under the radar'. HIW has links with local authorities who share intelligence about tattoo or body piercing establishments in their area who use lasers. Despite this, HIW has had challenges in identifying establishments using laser equipment which are not registered with HIW. HIW has conducted and continues to conduct visits to potentially unregistered providers identified from intelligence, these have resulted in a number of providers then registering and complying with the regulations.

Consideration will need to be given to aligning enforcement activities where an establishment is subject to the provisions of this Bill and the Independent Health Care (Wales) Regulations 2011.

- Do you believe the proposals relating to special procedures contained in the Bill will contribute to improving public health in Wales?

A system of effective regulation and inspection can lead to improved public health in Wales. Where a practitioner is operating in an unsafe manner, particularly in relation to infection prevention and control, this can potentially lead to a significant, albeit local, public health issue. HIW has uncovered such issues when conducting inspections where we have found unsafe decontamination procedures. In such examples the services temporarily stopped practising; health boards implemented immediate training and support for the staff; and our findings were referred to public health colleagues for a determination as to the risk to patients and what action should be taken as a result.

Part 4: Intimate Piercing

Part 4 of the Bill includes provision to prohibit the intimate piercing of anyone under the age of 16 in Wales.

HIW does not have a specific view on Part 4.

Part 5: Pharmaceutical Services

Part 5 of the Bill includes provision to require each local health board to publish an assessment of the need for pharmaceutical services in its area with the aim of ensuring that decisions about the location and extent of pharmaceutical services are based on the pharmaceutical needs of local communities.

- Do you believe the proposals in the Bill will achieve the aim of improving the planning and delivery of pharmaceutical services in Wales?
- What are your views on whether the proposals will encourage existing pharmacies to adapt and expand their services in response to local needs?
- Do you believe the proposals relating to pharmaceutical services in the Bill will contribute to improving public health in Wales?

We support the aim to maximise the public health role of pharmacies. This would complement the Welsh Government's plan for primary care services, to provide more care closer to people's homes.

In order to avoid duplication, the Pharmaceutical Needs Assessment should complement the local wellbeing assessment which the health board must produce according to the provisions of the Wellbeing of Future Generations Act 2015. The success of these plans in improving the planning and delivery of pharmaceutical services in Wales will depend on their quality.

Part 6: Provision of Toilets

Part 6 of the Bill includes provision to require local authorities to prepare a local strategy to plan how they will meet the needs of their communities for accessing toilet facilities for public use.

HIW does not have a specific view on Part 6.

Finance questions

- What are your views on the costs and benefits of implementing the Bill? (You may want to look at the overall costs and benefits of the Bill or those of individual sections.)
- How accurate are the estimates of costs and benefits identified in the Regulatory Impact Assessment, and have any potential costs or benefits been missed out?
- What financial impact will the Bill's proposals have on you/your organisation?
- Are there any other ways that the aims of the Bill could be met in a more cost-effective way than the approaches taken in the Bill's proposals?
- Do you consider that the additional costs of the Bill's proposals to businesses, local authorities, community councils and local health boards are reasonable and proportionate?

HIW does not have a specific view on this.

Delegated powers

The Bill contains powers for Welsh Ministers to make regulations and issue guidance.

- In your view does the Bill contain a reasonable balance between what is included on the face of the Bill and what is left to subordinate legislation and guidance?

There appears to be a lot of detail on the face of the bill relating to special procedures. Given that regulations are required, for example, to set out licensing criteria, could more of the detail have been left for inclusion in the regulations? It may afford greater flexibility for the future if the particular activities that constitute 'special procedures' are defined in regulations which can be more easily updated to reflect current trends.

Other comments

- Are there any other comments you wish to make about specific sections of the Bill?
- Do you believe that the issues included in this Bill reflect the priorities for improving public health in Wales?
- Are there any other areas of public health which you believe require legislation to help improve the health of people in Wales

There are a number of pieces of legislation currently being considered which impact upon the regulation and inspection of health and care related services and issues. It will be important to ensure that any new legislation is joined up and makes sense to the public and where appropriate to patients. This Bill should therefore be carefully considered and cross-referenced in light of the provisions of the Regulation and Inspection of Social Care (Wales) Bill and the 'Our Health, Our Health Service' Green Paper.

Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales.

Purpose

To provide the public with independent and objective assurance of the quality, safety and effectiveness of healthcare services, making recommendations to healthcare organisations to promote improvements.

Values

- **Patient-centred:** we place patients, service users and public experience at the heart of what we do
- **Openness and honesty:** in the way we report and in all our dealings with stakeholders
- **Collaboration:** building effective partnerships internally and externally
- **Professionalism:** maintaining high standards of delivery and constantly seeking to improve
- **Proportionality:** ensuring efficiency, effectiveness and proportionality in our approach.

Outcomes

Provide assurance:

Provide independent assurance on the safety, quality and availability of healthcare by effective regulation and reporting openly and clearly on our inspections and investigations.

Promote improvement:

Encourage and support improvements in care through reporting and sharing good practice and areas where action is required.

Strengthen the voice of patients:

Place patient experience at the heart of our inspection and investigation processes.

Influence policy and standards:

Use our experience of service delivery to influence policy, standards and practice.