

Evidence from British Acupuncture Council – PHB 15 / Tystiolaeth gan Y
Cyngor Aciwbigo Prydeinig – PHB 15

British Acupuncture Council

Response to Consultation on Public Health (Wales) Bill

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?

The British Acupuncture Council (BACc) believes that the introduction of a new compulsory national licensing scheme for special procedures will remove many of the anomalies which have arisen in the enforcement of Local Government Miscellaneous Provisions Act (1982) as amended by the Local Government Act 2003. The existence of non-mandatory model byelaws has not always led to consistent adoption of similar models by local authorities, and the BACc's experience is that local enforcement across the UK as a whole has been variable, with many authorities blurring the distinction between legal requirements and best practice advice in enforcement. A standardised system across Wales will both eradicate idiosyncratic interpretations of the law and create a single reference point for discussion and consultation on any variations which might be required in line with developments in health and safety requirements.

It follows that the BACc supports any provision to approve the premises or vehicles in which or from which special procedures are performed. The provision of clear guidance as outlined in the consultation document would set down a standard which would enable practitioners to ensure their premises were satisfactory, and as above, make very clear what upgrades and updates may be required in future.

In summary, the BACc supports these proposals, with the caveat that the advantages of a centralised system could be undermined unless suitable consultation procedures are in place for future development of the licensing conditions. The BACc was heavily involved in the drafting of the model byelaws by the Department of Health in 2005/6 and was able to bring important practitioner concerns to the fore when the national guidelines were created. The special procedures covered by this proposal range from the minimally invasive to the necessarily near-surgical, and it is important to enshrine a level of proportionality into guidelines affecting a range of techniques to avoid an unnecessary and unfair levelling up of requirements. This has to involve input from the professions, and the BACc hopes that this will be taken into account if these proposals become law.

Do you agree with the types of special procedures defined in the Bill?

The types of procedure outlined in the Bill are consistent with those in primary legislation elsewhere in the UK, except Greater London where 'special treatments' has a wider definition under the London Local Authorities Act 1991. The BAcC would not wish to see any changes to this list at this stage.

However, the emergence of variations on the standard theme has been considerable over the last forty years, and there are a number of techniques used in Traditional East Asian medicine, for example, which are proscribed by regulatory bodies like the BAcC but may actually be used by practitioners who choose not to register with a voluntary association. The example of 'wet cupping', a procedure widely used in China, demonstrates how there may well be variations to any of the named disciplines in the Bill which could be advertised and used without reference to the provisions of the Bill for want of inclusion within the definitions. The BAcC would welcome further discussion during the implementation of the Bill about the scopes of practice of the various techniques and what a local authority could reasonably claim to hold jurisdiction over.

What are your views on the provision which gives Welsh Ministers the power to amend the list of special procedures through secondary legislation?

The BAcC believes that such a provision is essential to avoid unnecessary expense or unnecessary delay in extending the range of procedures covered by the legislation. As noted above, however, the BAcC would welcome explicit rules for consultation if secondary powers are invoked in this way.

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?

The BAcC is pleased to see that registration under the Professional Standards Authority's AVR scheme has been accepted as a basis for exemption. Its experience of submitting itself to this new scheme has been that the requirements for accreditation have been onerous and robustly enforced, and have demonstrated this is not a 'soft option.'

The only cautionary note which the BAcC would like to sound is in relation to the exemption granted to registrants of professions regulated by statute. Its experience is that while most doctors and physiotherapists who undertake acupuncture belong to the relevant special interest bodies within their professions (the British Medical Acupuncture Society and Acupuncture Association of Chartered Physiotherapists), many other registered professionals like osteopaths and chiropractors go 'off the radar' in the absence of equivalent special interest bodies within their professions. This has meant that neither safety nor training standards of such practitioners are vetted, and the BAcC does not believe that this is entirely adequate. Set against the argument that the threat of loss of title ensures compliance with appropriate rules is the counter argument that you can't know what you don't know, and that it is not satisfactory to find out that something has gone wrong after it has gone wrong.

The BAcC would favour some form of explicit statement that there were powers within the Bill to inspect the premises of exempted practitioners where concerns has been raised about their standards of practice, and would be happy to see this enforced in relation to its own members. The logic applied in Greater London is that the exemption is granted on the assumption of maintaining exemplary standards, and therefore failure to maintain standards

should set aside the veil of exemption. Given that there are several published and readily accessible standards for safe acupuncture practice and recognised training, the BAcC believes that a local authority should have powers within the Bill to inspect and enforce precisely as it does with other licensees.

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

The BAcC is generally satisfied that the system as outlined in the Bill can be enforced effectively by local authorities, and believes that the clarity of the national statements and guidelines will eradicate those problems which it has met elsewhere. These have primarily been the generation of idiosyncratic rules by local Environmental Health Officers based on their personal beliefs, and the turnover of staff which has meant that incoming officers have not been properly inducted into the system, and have applied it somewhat arbitrarily. The new licensing arrangements should ensure that the reference material is available and consistently applied across the principality.

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

There is no doubt that a clear statement of standards and enforcement will be of benefit to public health in Wales, not least because an increasingly well-informed public used to electronic access to information will be able to find out easily what the relevant standards are and have confidence that anyone licensed within the new system has met and continues to meet them. This will also benefit the practitioners themselves, whose profile will be enhanced by demonstrating that the public can have trust that they are safe and competent.

The BAcC is grateful for having been invited to participate in the consultation, and would welcome any future invitations to be involved in the drawing up of detailed guidelines for acupuncture and acupuncture practitioners.

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