

Public Health (Wales) Bill / Bil Iechyd y Cyhoedd (Cymru)

Evidence from Save Face – PHB 46 / Tystiolaeth gan Save Face – PHB 46

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 principal purpose of regulation of any (healthcare) profession is to protect the public from unqualified or inadequately trained practitioners. The effective regulation of a therapy thus allows the public to understand where to look in order to get safe treatment from well-trained practitioners in an environment where their rights are protected. It also underpins the (healthcare) professions’ confidence in a therapy’s practitioners and is therefore fundamental in the development of all (healthcare) professions.’

We would question how the identified risks have undergone an appropriate assessment, and analysis of achievable, quantifiable and desirable outcomes which justifies the measures (and investment of public funds and resources) proposed.

In February 2011, the Government published the Command Paper ‘Enabling Excellence – Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers’. This document sets out the current Government’s policy on regulation, including its approach to extending regulation to new groups. In particular, it sets out the Government’s policy that, in the future, statutory regulation will only be considered in ‘exceptional circumstances’ where there is a ‘compelling case’ and where voluntary registers, such as those maintained by professional bodies and other organisations, are not considered sufficient to manage the risk involved. The paper also outlines a system of what is called ‘assured voluntary registration’. The Health and Social Care Act 2012 has implemented a number of the policies described in the Command Paper. The Professional Standards Authority for Health and Social Care now has powers to accredit voluntary registers of people working in a variety of health and social care occupations. The idea behind this is to provide assurance to the public that these registers are well run and that they require their registrants to meet high standards.

Has The Assembly considered supporting established Professional Associations to explore and develop more robust voluntary self regulatory frameworks (self-funded)? Well organised and appropriately focused professional bodies are better placed to establish;

- Standards of training and accreditation
- Codes of Conduct
- Standards of Practice
- Public and professional education
- Credible influence on both practitioner and consumer behaviour
- Appropriate expertise
- Flexibility to respond to public and professional concerns
- Hold, manage and publish registers of members
- Hold members accountable to Standards
- Manage complaints and report/refer to appropriate statutory regulators (e.g. Public/Environmental Health/MHRA)

The British Institute & Association of Electrolysis should be consulted and may prove to be the best vehicle to protect the public- sign posting consumers to properly trained professionals?

Alliance of Professional Tattooists
The Association of Professional Tattoo Artists
Association of Professional Piercers
Tattoo and Piercing Industry Union

The above (Tattoo) bodies should be brought together to collaborate, sharing experience and expertise to inform developing their own model for self regulation.

The British Acupuncture Council is a recognised body registered with The Professional Standards Authority. This model is one, other Associations should aspire to.

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

We trust that the list has been devised based on evidence of harm caused, high risk behaviour and poor practice related to these procedures. We would question how the measures proposed will impact on public health more effectively than encouraging and supporting more robust self regulation.

Acupuncture already has a model for registration and regulation, The British Acupuncture Council. We would question the need for this procedure to be included in the legislation, but perhaps the authorities should signpost the public to regulated practitioners (Registered members of The BAC).

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

We are very pleased the Assembly has had the foresight to ensure provision for flexibility to respond and adapt in a timely fashion. Statutory regulation should only be imposed if Voluntary self or co-regulation fails to deliver improved standards of safety and practice. With the exception of Acupuncture, this model of self- regulation has not yet been explored. The problem always lies with a lack of recognised standards of practice, training and accreditation and inclusion on a register which is accessible to the public and holds practitioners accountable. In the interests of gathering information and data, we would ask of the assembly whether the licensing process could include a questionnaire on other potentially high risk procedures performed and by whom and facilitate some form of reporting for members of the public who wish to raise concerns or complaints, as a means of gathering data for risk assessment to inform decisions on whether ,and for what procedures the list should be extended. Also, if in the course of inspection, the officer observes anything which he or she sees as a risk to public health, they record and report to appropriate authority/regulator.

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?

We appreciate the exempted professionals are accountable to their own statutory regulators, but the procedures included do not fall within their recognised scope of practice, and we feel it would be appropriate, in the interests of clarity for the public, that ALL those providing these procedures should be subject to the same mandatory licensing and inspection. It is our experience that regulated healthcare professionals are capable of unsafe practice in inappropriate environments. Their regulators do not inspect premises, would not be in a position to manage complaints and the process for appraisal and revalidation would not include any of these procedures.

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

Effective enforcement requires more than the process of licensing; application, verification, inspection and publication on a register. It must be supported with education, motivation and deterrent.

Education

The public must be familiar with the regulation and actively seek licensed providers.

- This can best be achieved by providing license holders with materials to promote their licensed status- badge, poster, logo for website and social media. The website and social media 'badge' should have an embedded link to the register- so that consumers can verify their license, and provide feedback on the service. The logo could say, 'click to verify'. Display should be compulsory.
- Articles about the licensing and regulation should be published in all trade and specialist magazines. It may be possible to require trade/specialist publications to include a statement about licensing wherever services are advertised. Not unlike the 'Drink Aware Campaign'.
- The register itself should also provide a platform for public education and should include advice and information to support the consumer to make safe choices and be aware of risks.
- The licensing process itself affords the opportunity to educate the practitioners, establish standards and provide guidelines. Save Face has provided model templates and guidelines on patient information, consent, complaints management, adverse event reporting, confidentiality/data protection, record keeping, infection control etc. which have been welcomed by our registrants and provide a clear bench mark for our inspectors to measure against.

Motivation

In a competitive market, providers will recognise the 'marketing value' of the logo/license. If the process is supportive, providers will see added value to obtaining a license.

Deterrent

- With the necessity of online presence, it is not difficult, with routine searches (Google, Facebook and Twitter) to identify providers and check they are licensed. This pro active activity, if neglected, allows unscrupulous providers to practice with impunity. They need to know they cannot fly, 'under the radar'.
- Fixed penalties, escalating for persistent offenders must be applied without exception. The penalty should be sufficient to act as a deterrent and should not be preceded with a warning.
- Advertising of unlicensed services (print media) should be prohibited, with fixed penalties applied.
- Reporting process must be accessible and responsive. To identify issues, to monitor and audit success/failure, to inform continuous improvement and to promote public confidence in the regulation.

Clearly, Education and motivation could be provided through self regulatory models, the deterrent aspects would be weak, without legislation to enable enforcement, but perhaps the Assembly could consider a model for co-regulation- when standards are breached, there is enforcement by local authorities?

Problems:

Lack of appropriate knowledge/expertise exploited by practices

Enforcement officers applying standards not applicable to specialism.

Reluctance of public to report/ or lack of understanding- who to report to and for what?

Lack of public/consumer engagement

Lack of engagement with trainers and professional bodies

Lack of targeted resources to prevent harm, rather than act retrospectively to punish when harm is caused.

Poor data collection for audit

Lack of consistency across regions.

Safe practices will be more inclined to register, whilst high risk services go 'underground'. It is our experience that the public who use unsafe services are less likely to raise concerns or make complaints, for a variety of reasons.



- There is none who will take responsibility
- They don't know who to complain to
- They are embarrassed
- They have been intimidated/ threatened

THIS needs to be addressed as a matter of priority. Current licensing models tend to cling to the four corners of the legislation (has the practitioner/premises breached the terms of the licensing?) This fails the consumer.

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

We believe the proposals have the potential to contribute to public health in Wales. Lessons might be learned from similar regulations applied in London Boroughs and Nottingham. This must not be perceived, either by the licensees or the public as 'just another income generator'. The officers must be well trained, well informed, understand the wider regulatory framework and be clear on their public protection responsibilities which may at times, go beyond the four corners of this Act, and require referral to or collaboration with other statutory or executive bodies. Complaints must be recorded, resolved and audited. 360 degree feedback must be encouraged and published to inform continuous improvement.

It is our opinion that **effective** regulation would be more expensive and complicated than anticipated. It is currently estimated that the cost of fully implementing this licensing bill would cost in excess of £6m of public funding and is the second most expensive item on the health bill. This would place an additional burden on already challenged public services at a time when there must be higher priorities. Local Authorities are not best placed to implement the measures proposed and

do not have sufficient resources to do so. However, when practice breaches standards and legislation already in place (Health and Safety Legislation) they should have clear responsibilities and publicly accessible processes to act and prosecute; this is already assumed and expected.

Save Face propose it is not in the public's interest to allocate such a significant amount of public funding to such services. These are elective procedures and there are other forms of introducing more stringent standards across the board that would be cost neutral to the tax-payer but would be income generate for the local authorities who would still have ownership of applying legislation where standards have been breached to apply enforcement action. Save Face propose that it would it would be more appropriate cost effective and efficient to contract the ownership and management to a third party scheme. To Contract the development of standards, assessment model and audit to a third party organization who would submit a competitive tender for the contract. This would facilitate business growth and job creation in Wales whilst mitigating risk and cost to each authority. The appointed origination would have the existing infrastructure and training framework to implement the model at a far greater pace and would have access to the areas of specialism required to create a fit for purpose set of standards to assess both the suitability of the practitioner and the environment in which the treatments are performed. It would also have the necessary experience and infrastructure to develop and raise consumer awareness of the register, a vital element of successful licensing which other public facing registers have failed to do.

This model has proven significantly more effective in other cases of accreditation that are managed on an outsourced basis on behalf of the government in other areas requiring the application of a stringent set of standards. For example there are several of government appointed health and safety accreditation schemes including; Safecontractor, Altius, Constructionline and in utilities; Gas Safe which is managed by Capita PLC on behalf of the UK government.



Case History (Not Wales)

I reported to Public Health England.

I was referred to the local Authority

I was contacted and spoke to a nurse who understood and acknowledged my concerns

The Inspectors established the salon was not licensed to provide IPL hair removal or permanent makeup and did an unannounced inspection, but did not find the provision of dermal fillers as within their scope, so declined to take any action or any investigation of my complaint!

The full name of the nurse is not published, the salon will not provide it to me, therefore I cannot complain to The NMC (Nursing and Midwifery Council-) in any case, they would require more 'evidence'. There is no regulator who can take any action without further evidence, and no regulator who will use their authority (and resources) to investigate, based on my complaint....Presumably we will have to wait for a member of the

public to contract Hep B or Hep C and be able to trace it to a shared syringe of dermal filler or botulinum toxin, before any action is taken, This is unacceptable,

We are happy to provide further and better particulars, upon request ,on any of the comments we have made.

Save Face