

PHB 15

Bil Iechyd y Cyhoedd (Cymru)

Public Health (Wales) Bill

Ymateb gan: Arolygiaeth Gofal Iechyd Cymru

Response from: Healthcare Inspectorate Wales

14 December 2016

Response to the Health, Social Care and Sport Committee inquiry into the general principles of 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.

To consider the general principles of the Public Health (Wales) Bill to improve and protect the health and well-being of the population of Wales, specifically to:

provide for the creation of a mandatory licensing scheme for practitioners and businesses carrying out 'special procedures', namely acupuncture, body piercing, electrolysis and tattooing;

1. 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 procedures¹. In such examples the services temporarily stopped practising; health boards have 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.

Information to the public

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

¹ For example: <http://hiw.org.uk/docs/hiw/inspectionreports/150220idhcrickhowellen.pdf>

information would be held in one place. It would be helpful for the public if any national register should include a list of all registerable services and which body is responsible for registering them.

Requirements

3. Section 59 (2) of the Bill as proposed says that the licensing criteria will include that the individual will need to demonstrate knowledge of “infection control and first aid, in the context of the special procedure to which the application relates.” 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 for exempted individuals. Registration with a professional body such as the General Chiropractic Council, does not automatically equate to fitness to practise a procedure such as acupuncture. It would be helpful to consider what specific training requirements are required for registration with the respective professional bodies, to ensure all individuals performing these special procedures are adequately trained.

Service or establishment based regulation?

4. It is important to align the language used in this Bill to the language used in other legislation relating to regulation and inspection. The language used in both the Regulation and Inspection of Social Care (Wales) Act 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. It would be helpful to clarify how the approach taken in this Bill fits with other current and proposed legislation.

Overlapping responsibilities

5. Local authorities are responsible for regulating and monitoring businesses offering body piercing and tattooing. This includes 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.

6. 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 is often found in establishments which undertake tattooing, as tattoo removal can be conducted using a laser. Such machines are also used in beauty salons, which use the equipment for hair removal.

7. 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 establishments using a Class 3B or 4 laser/IPL machine 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.

8. There is therefore overlap between the work of the local authority in monitoring businesses offering tattooing, 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.

9. 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 could be an opportunity in this Bill to clarify arrangements to avoid two public bodies monitoring the same service at the same time.

10. The Bill could also be an opportunity to update the regulations in respect of laser/IPL machines. Is it appropriate or desirable for the healthcare inspectorate to regulate and inspect tattoo establishments and beauty salons? There is a distinction made in the Independent Health Care (Fees) (Wales) Regulations 2011 between a Class 3B/4 laser used for surgical purposes and one used for non-surgical purposes. There could be an opportunity in this Bill or subsequently to define these terms, and to include lasers for non-surgical purposes in the work of local authorities. This would leave HIW to focus on the more risky, healthcare related laser use, for example in laser eye surgery.

Additional procedures

11. 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 and dermal fillers. Services providing these procedures are not required to register with HIW under the Independent Health Care (Wales) Regulations 2011. These treatments carry risk as they pierce the skin, in the same way as those procedures already included on the face of the Bill.

12. It will be important for Welsh 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 the public can be assured of the safety of the services they receive. HIW is often contacted about new services which it cannot regulate as they fall outside the scope of the Independent Health Care (Wales) Regulations 2011. It could 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.

require Welsh Ministers to make regulations to require public bodies to carry out health impact assessments in specified circumstances;
change the arrangements for determining applications for entry onto the pharmaceutical list of health boards (LHBs), to a system based on the pharmaceutical needs of local communities;

13. It is important to ensure that any new legislation is joined up and makes sense to the public and providers. This Bill should be considered and cross-referenced in light of the provisions of other recent legislation such as the Regulation and Inspection of Social Care (Wales) Act, the Social Services and Wellbeing (Wales) Act and the Wellbeing of Future Generations (Wales) Act. For example, in order to avoid duplication, the Pharmaceutical Needs Assessment and Health Impact Assessment should complement the local wellbeing assessment and population needs assessment which the health board must produce under the provisions of the Wellbeing of Future Generations Act and the Social Services and Wellbeing (Wales) Act.

Any potential barriers to the implementation of these provisions and whether the Bill takes account of them

14. There will be challenges for local authorities in identifying those providers of services who are practising 'under the radar'. HIW has some 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 also 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.

Whether there are any unintended consequences arising from the Bill
The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

HIW has no specific comment.

Annex 1

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.