Chartered Institute of Environmental Health

Amendment to the Health and Care Bill to improve the safety and regulation of aesthetic non-surgical cosmetic procedures – Second Reading

Parliamentary briefing · December 2021

Chartered Institute of Environmental Health (CIEH)

CIEH is the professional voice for environmental health representing almost 7,000 members working in the public, private and non-profit sectors. Building on its rich heritage, CIEH ensures the highest standards of professional competence in its members, in the belief that through environmental health action people's health can be improved.

Environmental health has an important and unique contribution to make to improving public health and reducing health inequalities. CIEH campaigns to ensure that government policy addresses the needs of communities and business in achieving and maintaining improvements to our environment and our health.

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Context

Aesthetic non-surgical cosmetic procedures can include a wide range of procedures available directly to members of the public. These procedures are aimed at enhancing or altering appearance and include lip fillers, injectables, thread lifts, semi-permanent makeup, laser treatments, piercings and tattoos.

In recent years, there has been a significant rise in the number and type of non-surgical aesthetic procedures performed in the UK. Practitioners, both medically and non-medically trained, are performing procedures without being able to evidence appropriate training and required standards of oversight or supervision for high-risk procedures.

Aesthetic non-surgical cosmetic procedures can cause serious harm to consumers, if they are not carried out correctly in a safe environment or by competent and trained practitioners. Procedures that puncture the skin carry the risk of transmission of blood-borne viruses, if appropriate infection control measures are not taken, whilst a lack of training and competence can lead to serious injuries.

What is the amendment aiming to do?

The amendment introduces an enabling power for the Secretary of State for Health and Social Care to bring into force a national licensing scheme for aesthetic non-surgical cosmetic procedures in England.* Whilst this amendment does not outline exactly how the new licensing scheme should work, there are good reasons for this. It would be better to set out these details in secondary legislation as this would make these easier to amend, as new treatments come on the market.

More research and engagement with all stakeholders is needed to develop a scheme that will work well for all relevant procedures. The new licensing scheme needs to be a practical and efficient system for members of the public, regulators and practitioners. Given the number and complexity of the procedures potentially in scope, the licensing scheme should be designed in collaboration with all the relevant stakeholders and given adequate time to ensure the right standards are set for each procedure.

A licensing scheme for aesthetic non-surgical cosmetic procedures would need to:

- Be flexible to capture new procedures coming onto the market in the future
- Set standards for training, qualifications and competency requirements for the practitioners relative and proportionate to risks involved with the procedure being performed
- Include periodic checks of premises and continuous professional development of the practitioner
- Provide clarity on the regulation of mobile or home-based practitioners
- Make provisions to ensure that all medicines, devices and products used within the aesthetic industry are appropriately and legally sourced, quality controlled and administered
- Ensure that all practitioners possess appropriate levels of indemnity insurance and provide access to redress schemes for members of the public, should complications arise as the result of any aesthetic procedure

*The amendment should also be able to be adopted by the UK Nations if there is interest from the Devolved Administrations.

Why is more regulation needed?

There is a registration scheme in England for certain special treatments, such as epilation, tattooing, piercings, semi-permanent make up and acupuncture. However, some of the riskier and any newer types of procedures cannot be included within the scope of the current regulatory regime. Furthermore, the present system of registration does not allow regulators to specify conditions, qualifications and competency requirements.

Only a small handful of areas across England have introduced their own licensing schemes in order to protect members of the public – this is the case in London, Nottingham and Essex. However, a survey of regulators carried out last year found overwhelming support for the introduction of a licensing scheme, with 90% of the respondents agreeing that this could improve the regulatory system and protect the public from harm.[1]

There are currently three Professional Standards Authority (PSA) approved voluntary registers of checked practitioners and one voluntary register of approved education and training providers that operate in the industry. However, these are not mandatory for practitioners to join, which means that there are many practitioners providing treatments directly to members of the public without any checks.

Ofqual are also not empowered to require training providers to evidence that their qualification is compliant with an industry standard. The implementation of official nationally-set standards on the training and qualification expectations for practitioners of different procedures will be key to safer practices.

The creation of a national licensing scheme in England for practitioners of aesthetic non-surgical procedures would ensure that all those who practise are competent and trained, improving safety for members of the public. In order to be effective, the licensing scheme should also be underpinned by the development of training and qualifications expectations for all practitioners, as well as a set of standards, such as the requirement for appropriate insurance cover. Many newer treatments fall outside the scope of the original definition of regulated treatments in Local Government's Miscellaneous Provisions Act 1982 that local authorities use to regulate this sector. New legislation is needed, which is able to cope with this in real time.

What support is there for the amendment?

This amendment is supported by a number of prominent public health, professional membership bodies and voluntary registers for cosmetic practitioners, including Chartered Institute of Environmental Health (CIEH), the Royal Society for Public Health (RSPH), Institute of Licensing (IoL), Joint Council for Cosmetic Practitioners (JCCP), UK Public Health Network (UKPHN), Faculty of Public Health (FPH) and Save Face.

The amendment also enjoys a wide base of support from across the beauty industry from the British Association of Beauty Therapy & Cosmetology (BABTAC), British Beauty Council (BBC), Cosmetic Executive Women (CEW), Cosmetic, Toiletry and Perfumery Association (CTPA), Federation of Holistic Therapists (FHT), Hair and Beauty Industry Authority (Habia), National Hair & Beauty Federation (NHBF), Federation of Nails Professionals, Hair and Beauty Supplier Association (HBSA), and the UK Spa Association (UKSA). The Tattooing and Piercing Industry Union (TPIU) is also supporting this amendment.

The APPG on Beauty, Aesthetics and Wellbeing recently recommended the implementation of a national licensing scheme to be introduced in England to improve the safety of procedures for the public, following a year-long inquiry into aesthetic non-surgical cosmetic procedures.[2] There is also significant support amongst cross-party parliamentarians, with many speaking in support of better regulation in this area in Parliament in recent years.

Members of the public strongly support more regulation to improve the safety of aesthetic non-surgical cosmetic procedures. 9 out of 10 people have said that practitioners who carry out special procedures should be legally required to hold an infection control qualification.[3] Furthermore, 9 out of 10 regulators – including environmental health practitioners and licensing officers – have said that they would like to see a national licensing scheme in England.[1] A nation-wide scheme with nationally-set standards is expected to bring all practitioners up to a safe level and simplify regulatory powers.

What is the scale of the problem?

No official data is collected on how many members of the public choose to have aesthetic non-surgical cosmetic procedures every year. Around half of women aged 16-24 had a piercing on their body, suggesting that these treatments are more popular with younger people.[3] Nearly one in five (19%) British adults has a tattoo and from 2004-2014, there was a 173% rise in the number of tattoo parlours in the UK.[4,5] New treatments on the market can quickly grow in popularity, due to new fashion trends, celebrity endorsements and online influencers.

What problems can arise when things go wrong?

Save Face, a PSA accredited voluntary register, has successfully campaigned for safer cosmetic treatments and published reports from patient submitted data. In 2018, Save Face received 934 reports about different procedures. The most common complaints related to dermal fillers (66%) followed by botulinum toxins (24%). Of these complaints, 41% resulted in corrective procedures and 4% in visits to GPs and A&E.[5] There will also be mental health impacts of procedures that have gone wrong. However, these numbers are likely to be only a small fraction of those experiencing problems, concerns or complications as a result of their procedure.

The JCCP also receives regular reports of inappropriate procedures being provided by untrained and inexperienced practitioners. Many practitioners associated with these complaints have received training from unregulated training providers who have made exaggerated claims to both practitioners and members of the public with regard to their standards of proficiency and 'fitness to practice'. The JCCP has reported in excess of 70 such training organisations to the Advertising Standards Authority (ASA) and to the Committee of Advertising Practice (CAP) since 2019.

The CIEH and IoL survey of regulators revealed numerous examples of clients suffering infections, injuries, scarring, burns and allergic reactions as a result of a range of procedures, including:

- Outbreaks of infection at skin piercing premises, resulting in individuals being hospitalised and, in some cases, disfiguration and partial removal of the ear
- Clients suffering second and third degree burns from lasers and sunbeds
- Allergic reactions due to failures to carry out patch tests or medical assessments, leading to hospitalisation
- Blindness in one eye caused by the incorrect administration of dermal filler
- The injection of fillers or botulinum toxins into blood vessels, causing blockages and the dying back of tissue

What is happening in the UK nations?

The enabling power in this amendment should be available to the Devolved Administrations to adopt as appropriate.

In Wales, the Public Health (Wales) Act 2017 created a mandatory licensing scheme for practitioners and establishments carrying out special procedures in Wales. The four procedures specified in the Act are acupuncture, body piercing, electrolysis, and tattooing, although there is provision to add or remove procedures via regulations, to take account of new practices and changing trends. There will be one central register of licensed practitioners and mandatory conditions will apply, including a condition that practitioners must be trained in infection control. The scheme implementation has been paused due to coronavirus but is due to be resumed once capacity allows.

In Scotland, the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 requires individuals who own businesses that offer acupuncture, cosmetic piercing, electrolysis, semipermanent make-up and tattooing services to obtain a licence to operate. Earlier this year, the Scottish Government launched a consultation on whether to extend licensing to cover additional non-surgical aesthetic procedures, including dermal fillers and botulinum toxins. The Scottish Government is currently reviewing the outcome of this consultation with a view to making further recommendations on licencing and public protection.

In Northern Ireland, the situation is similar to that in England, where only registration of a limited set of treatments is in place. There should therefore be provision for Northern Ireland Executive to adopt a licensing scheme via Regulations.

What can you do to help?

In the House of Commons, this amendment was supported by 20 cross party MPs at Report Stage. The Minister acknowledged that "a strong case has been made for further regulation in this area" and that the Government were considering the recommendation for a licensing scheme. He promised to report back in early 2022.

We would be keen to raise this important issue again in the House of Lords and ask the Government for an update on their work in this area. We are therefore asking Lords for their support as this Bill progresses to the next stages.

For further information, speaking notes, case studies or to be put in touch with any organisations supporting this briefing, please get in touch with **Tamara Sandoul** on t.sandoul@cieh.org

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NHBF Supporting the hair, beauty and barbering industries

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SPA UK UNITED KINGDOM SPA ASSOCIATION

Mental Health Foundation

References

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3. Public poll carried out in 2019. Skins and Needles, Royal Society of Public Health, 2019.

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5. Complaints Report 2017-18, Saveface.

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