Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill
Royal College of Physicians of Edinburgh

NVPs and smoking in hospital grounds

1. Do you support the Bill’s provisions in relation to NVPs?
   Yes, however we would also wish to see action taken on the use of NVPs (nicotine vapour products) in enclosed public places, as the College believes NVPs should be subject to the same restrictions as tobacco.

   The College fully supports the provisions in relation to NVPs listed in the Bill, including the introduction of an offence of selling a NVP to a person under the age of 18; the introduction of an age verification policy; making proxy purchase an offence; the requirement to register NVP businesses and the provision of powers to make regulations containing restrictions on advertising; sponsorship and giving away NVPs.

2. Do you support the proposal to ban smoking in hospital grounds?
   Yes. The Bill offers the potential to maintain some flexibility in terms of the extent of the ban in hospital grounds, which the College welcomes due to the practical difficulties of enforcement and the need to respect vulnerable people who may be addicted and under stress.

   In some cases it may be better for Health Boards to designate large areas of grounds non-smoking, but have discretion to have limited areas, well away from entrances where smoking might be permitted. The great variation in the size and arrangement of NHS grounds make it necessary for the legislation to be flexible according to the local circumstances.

   In long-stay facilities, including long-stay mental health care and care of the elderly wards, it may be necessary to provide some facilities for cigarette and e-cigarette use, provided this has no impact on staff or other people in the facility.

3. Is there anything you would add/remove/change in the Bill with regards to NVPs or smoking in hospital grounds?
   As mentioned in Question 1, the College would like consideration given to NVPs being subject to the same restrictions as tobacco, unless new evidence of absence of harm comes to light.

   A paper published by the American Industrial Hygiene Association “White paper: Electronic Cigarettes in the Indoor Environment” highlights a number of concerns, including the lack of regulation and quality control of the devices; chemical exposures to bystanders, and the lack of good evidence about exposure to many of the flavourings etc, employed in e-cigarettes. The paper concludes that while they may carry lower risks than tobacco cigarettes, there is not enough evidence of their safety.
Duty of candour and wilful neglect

4. Do you support the proposed duty of candour?  
Yes. There is a need for the NHS to be recognised by the public as open and transparent about adverse incidents and poor quality, and in this regard the College supports the introduction of an organisational duty of candour.

The College would particularly emphasise that legislation needs to be accompanied by cultural change in organisations to be effective, and that the requirements should help to reinforce an open and transparent culture of learning and improvement where possible.

5. Do you support the proposal to make wilful neglect or ill-treatment of patients a criminal offence?  
Yes. The College is supportive of the offence of ill-treatment and wilful neglect being applicable in all formal health and social care settings.

6. Is there anything you would add/remove/change in the Bill with regards to these provisions?  
The College notes that “further detailed consultation will take place about extending the provisions to children in both health and social care situations and whether this should be done at Stage 2 in the parliamentary process”ii.

The College supports the offence of ill-treatment and wilful neglect being extended to health and social care services for children as it seems illogical to exclude certain groups of victims of the acts of wilfully neglecting, or ill-treating due to their age. The focus of the legislation should be on the quality of care and treatment.

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i American Industrial Hygiene Association; White paper: Electronic Cigarettes in the Indoor Environment 
ii Section 193, Policy Memorandum: Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill 
 http://www.scottish.parliament.uk/S4_Bills/Health%20Tobacco%20Nicotine%20etc.%20and%20Care%20Scotland%20Bill/b73s4-introd-pm.pdf