The Regulation of Independent Clinics in Scotland

Introduction

Sally Taber represented Treatments you can Trust and the Independent (healthcare) Sector Complaints Adjudication Service on the Scottish Cosmetic Interventions Expert Group and prior to that the Trade Association for Independent Healthcare and contributed to the report that was produced in July 2015. She was also the industry representative on the Health Education England’s Qualification requirements for delivery of cosmetic procedures: Non-surgical cosmetic interventions and hair restoration surgery and the British Standards Institute in developing a European wide regulatory framework for both non-surgical and surgical cosmetic treatments through the Centre European de Normalisation (CEN).

Background to Treatments you can Trust

For the benefit of the public, Treatments you can Trust provides trustworthy expert verification of the credentials of appropriately trained doctors, dentists and registered nurses to perform non-surgical cosmetic injectable treatments.

Its origins go back to a 2005 report when Sir Liam Donaldson the then Chief Medical Officer alerted healthcare to the dangerous laxity in standards for cosmetic interventions in the private sector. In 2007 Dr Vallance-Owen (then Medical Director of BUPA) and Sally Taber (then Director of Standards at Independent Healthcare Advisory Services (IHAS) were tasked by the then Minister for Health England to set Standards for the non-surgical cosmetic injectables trade. The IHAS Register of Injectable Cosmetic Providers started work in March 2010. After a brief hiatus in 2014 Sally Taber formed a new company, Cosmetic Quality-Assurance Ltd (CQAL), to administer the Register, The Cosmetic Injectables Standards, the Laser Standards, and the Training Principles. The business plans include a new register of lasers, and collection of data on treatments in conjunction with Northgate Public Information Services. It is overseen by the Governance Board of which the Chair is Baroness Trish Morris CBE.

1. Do you support the new regulations?

Treatments you can Trust (TYCT) does support the new regulations. It formally commented, in the Scottish Government Press Release following the release of the Scottish Cosmetic Interventions report in July 2015, that in particular the recommendations on ethical advertising, and complaints management would foster improvement in the delivery of high quality care. The move towards data collection and analysis was welcomed. Data collection, to include Adverse Clinical Incidents, is imperative.
Treatments you can Trust and the Independent Sector Complaints Adjudication Service

The Independent (healthcare) Sector Complaints Adjudication Service was formulated fifteen years ago and has a formal agreement with Healthcare Improvement Scotland to manage third stage complaints in the independent sector. Treatments you can Trust members have access to the Centre for Effective Disputes Resolution for managing intractable complaints.

TYCT responded to Healthcare Improvement Scotland Fees consultation on Independent Healthcare Regulation but the response does not seem to have been acknowledged in the consultation summary. TYCT felt the fees were disproportionately high compared to independent hospitals at £4k when the hospital has much more complicated processes and policies in place and higher revenue procedures. There was no detail on cost to chains of clinics (many in one ownership), considering they have the same internal processes in place in all clinics and also pay to belong to Treatments you can Trust.

2. Do you believe that further regulation is needed?

TYCT does believe that further regulation is needed in particular of the clinics undertaking surgical procedures. Sally Taber was involved in the establishment of the Scottish Independent Hospitals Association (SIHA) prior to leaving to be Director of Treatments you can Trust as an independent organisation as proposed in the Keogh review. The provision of non-surgical cosmetic procedures is increasing in independent practices and clinics. The principles of Treatments you can Trust have been established involving indirect regulation namely practitioners undertaking cosmetic injectables are on a professional regulator namely the GMC, GDC and the NMC, The Medicines Act is adhered to for Botulinum Toxin as a prescription only medicine and the Health and Safety at Work Act Section 3 ensuring that the premises are appropriate for a medical treatment. TYCT does not recognise that a home setting is appropriate. The work of Health Education England does need to be acknowledged by Healthcare Improvement Scotland with the qualification framework to ensure that the practitioner is appropriately trained and maintains their skill level.

3. Why is this legislation different from proceeding legislation?

To what extent do you consider this legislation will be implemented?
TYCT believes this is a positive initiative especially since surgical cosmetic procedures are not currently regulated within the clinic environment. TYCT considers that it is essential that it must be implemented but indirect regulation must be taken into consideration and such schemes as the Health Boards have implemented with Dental Surgeries are essential to acknowledge.
4. **Do you agree with basing the definition of ‘independent clinic’ on the healthcare professional providing the service rather than basing it on a specific procedure or specific ‘cosmetic’ treatments and do you agree with the range of healthcare professionals identified?**

TYCT agrees with the above definition but also with the phased introduction of regulation and strongly agrees with compulsory licensing. This would work well with a Register such as Treatments you can Trust that incorporates a data collection mechanism as well as access to a complaints management service such as CEDR.

TYCT was about to launch a self-regulation scheme for Laser Providers just prior to the PIP Implant scandal. The principles of this scheme are that Beauty Therapists can undertake certain Laser treatments providing they have been trained within the Level 4 qualification framework, they have undertaken a recognised Core of Knowledge training programme and have access to a Laser Protection Adviser and an Expert Registered Healthcare Professional. TYCT have worked in conjunction with the British Medical Laser Association to undertake this work under the leadership of Professor Harry Mosely and also Habia – the Hair and Beauty Industry Association.

TYCT understands the BDA’s concerns with regards beauty therapists working in beauty salons who carry out teeth whitening / bleaching etc. This is actually illegal and it is important that there is public education and they understand the importance of only going to a Dentist for teeth whitening/bleaching etc.

5. **Will the regulations result in a lowering of risk to members of the public who have treatments carried out?**

TYCT considers that the primary aim of such regulations would be to lower the risk and raise the quality of treatment for members of the public who have cosmetic treatment in independent clinics.

**Advertising.** TYCT registered practitioners are required to conform to the Advertising Standards Authority rules for advertising which forbid advertising of prescription only medicines; advertising cosmetic treatments to minors; enticement to unsuitable treatments. The subordinate Committee on Advertising Practice (CAP) issues rules on advertising cosmetic interventions and exemplifies good practice and advises on borderline written and broadcast material. The result has been much improved standards of veracity and legality to a point where, although constant vigilance has to be maintained against pushing beyond the boundaries, most cosmetic injectables advertising by TYCT registrants is acceptably restrained.

6. **Could the legislation and the new requirement to register (including costs associated with registration) have any unintended consequences (such as on smaller one premise businesses, or unintentionally divert people to those businesses who are not**
registered such as salons (and which don’t have to accommodate the additional costs for registration)?

TYCCT noted these concerns in their response to Healthcare Improvement Scotland Fees consultation on Independent Healthcare Regulation that the introduction of a flat fee for registration was inappropriate due to the range of sizes of independent clinics. We would expect the costs involved to be less for a smaller clinic as opposed to a larger one. There are also branches of clinic chains such as Sk:n, Transform, Harley Medical Group, The Private Clinic and Destination Skin in Scotland who adhere to the quality framework of TYCT.

**Public Education.** A significant threat is posed to the public by its own belief that cosmetic interventions are without risk, an error exposed by the PIP fraud but daily repeated. Most choose the supplier by price, not safety or results. A valuable contribution that could be made to public safety would be a public information campaign pointing prospective purchasers towards providers who can display a quality mark.

**Professional Standards Authority for Health and Social care.** “The Professional Standards Authority is here to protect the public and help ensure their health and well-being. We assess organisations that register health and social care practitioners who are not regulated by law so that you can choose a practitioner to meet your needs with confidence.” TYCCT intends to be accredited by the PSA, which will raise its status to a level where the public will be even surer that practitioners in possession of its quality mark are to be fully trusted.