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Clare Haughey MSP
Convener
Health, Social Care and Sport Committee
Scottish Parliament
EH99 1SP

17 December 2025

Dear Convener,

Thank you for inviting me to give evidence to your committee on the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill ("the Bill"). I am grateful to you and your members for your questions, as well as the time you've taken to gather the breadth of evidence you have taken over the last few weeks. I look forward to reading your report when it is available.

I was particularly interested in the evidence taken by your committee on the offences in the Bill. It is right that these offences receive scrutiny, given their importance in achieving the aims of the Bill. It is also important that in providing for offences a proportionate approach is taken, and that criminal offences are drafted carefully.

In that context, I welcome the opportunity to provide a full response to the committee in respect of the question posed by Patrick Harvie MSP. Mr Harvie asked:

The offence the Bill creates is around providing procedures outwith permitted premises, it does not cover offering procedures that would take place outwith permitted premises. Are there any existing offences that come into play around offering procedures that could play a role in enforcement? Where procedures are being offered but there is no evidence that this has actually happened would there be any way for enforcement authorities to exercise power of entry.

There are three offences in the Bill, and two of those relate to providing non-surgical procedures - section 2 (offence of providing a non-surgical procedure to a person under 18) and section 3 (offence of providing a non-surgical procedure outwith permitted premises). The third offence is the offence of obstructing an authorised person (section 11).

The explanatory notes for the offences in section 2 and 3 explain the parameters of what "provide" would mean in the context of the offence. At paragraph 29 of the explanatory notes for section 3 it states -

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This section creates an offence of providing a non-surgical procedure to another person outwith permitted premises, as defined in section 4 of the Bill. In terms of providing a non-surgical procedure under this section, it is considered that this could apply to not only the person administering a non-surgical procedure but also to a person (whether an individual or a legal person) providing the procedure in the broader sense of supplying the procedure. Depending on the circumstances, this could include a person who makes available the premises where the offence is committed, purchases and supplies the materials or substances required in connection with the non-surgical procedure, or who arranges the recruitment (or training) of staff in connection with the provision of non-surgical procedures.

Additionally, section 294 of the [Criminal Procedure \(Scotland\) Act 1995](#) sets out that any attempt to commit an offence is also an offence. Whether an attempt to provide a non-surgical procedure to a person under 18 and/or outwith permitted premises would amount to an offence and be prosecuted will depend on the facts and circumstances of the case and will be a matter for the Crown Office and Procurator Fiscal Service to determine.

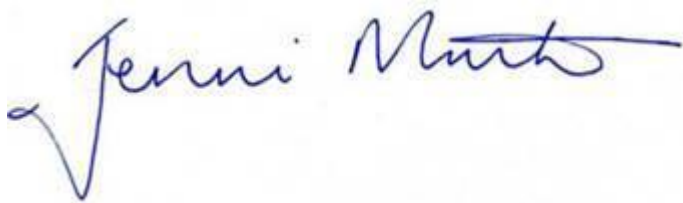
Depending on individual facts and circumstances, when investigating potential offences Healthcare Improvement Scotland may be able to use information relating to procedures being offered (e.g. on social media) as reasonable grounds for belief that an offence has been committed and to enter a premises under section 7 of the Bill. It may also be possible for this information to form the reasonable grounds for belief that an offence has been committed and for a sheriff or justice of the peace to grant a warrant to enter a premises under section 9 of the Bill.

I think that this represents a proportionate and appropriate offence. I hope that the committee is reassured that the breadth of the offence is appropriate. I hope that this further information is helpful to Mr Harvie and aids your committee in their considerations and I will read any comments or recommendations on this matter in your stage 1 report carefully.

I also indicated that I will be writing to the UK Government on issues relating to the UK Internal Market Act, and I will share that correspondence with the committee as it is progressed.

There were a variety of other issues raised by members. If I am able to provide any further information to support the committees ongoing consideration I will be happy to do so.

Yours sincerely,



Jenni Minto MSP

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