

Alex Bruce
Clerk to the Health, Social Care and Sport
Committee

10 December 2025

Dear Alex

Stage 1 Consideration of the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill

Please pass on our thanks to the Committee for their time on 2 December, we trust the information we were able to provide was helpful, just as we hope the additional detail provided below meets the expectations of members and addresses the points raised. If there is anything further we can do to assist members, or you and your fellow clerks, please get in touch.

We noted that members were interested in the definition of a “regulated health care professional” in section 1, and some comparison was drawn with the list of health care professionals in section 4(3) of the Bill. The definition of permitted premises in section 4 of the Bill includes an independent clinic registered with Healthcare Improvement Scotland (“HIS”), whose services are provided or managed by one of the health care professionals listed in section 4(3). Although the focus was on the former issue, we also committed to say a little about the latter issue, and we note that there is scope for confusion between the two, very differently drawn, lists of professionals. As such these will be taken in turn below.

We would also like to take this opportunity to make the Committee aware that the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026 was laid in draft today. This Order will create a new local authority run licensing scheme for lower risk procedures which can be safely undertaken without the requirements that apply to Bill procedures.

Yours sincerely,

Owen D. Griffiths

Regulated health care professionals

Healthcare exclusion (section 1(1)(b))

Section 1 of the Bill, as introduced, defines a non-surgical procedure. This definition excludes a procedure:

- provided by a person acting on behalf of the health service (the NHS), or
- that is provided by a health care provider for the purpose of, or in connection with, preventing, diagnosing or treating an illness.

A health care provider means an independent health care service or a regulated health care professional/a person acting in accordance with the directions of a regulated health care professional.

Regulated health care professional means a person regulated by one of the regulatory bodies listed in section 1(3) of the Bill.

This means that where procedures are provided for a health care purpose (falling within the exclusion in section 1(1)(b) of the Bill), they will not be subject to the provisions regulating “non-surgical procedures” under the Bill.

This exclusion from the definition of non-surgical procedure in section 1 of the Bill delivers the intention, expressed by Ministers and made clear in the consultation response published earlier this year, that the Bill will not interfere with the delivery of health care.

Schedule 1 of the Bill sets out the procedures which are to be regulated and some of these procedures may be provided for a health care purpose. An example of this is an “injectable procedure” which is described in paragraph 5 of schedule 1. This definition is broadly drawn to include the range of different injectable procedures, the most common of which are the use of dermal fillers or injections of Botulinum toxin. However we are also aware that both dermal fillers and Botulinum toxin may be injected for health care purposes. Without the health care exclusion set out in section 1(1)(b)(i) and (ii) of the Bill, a range of procedures capable of being provided for a health care purposes would be inadvertently captured by the Bill.

Members were concerned that the exemption could be misused to allow regulated health care professionals to carry out procedures with a purported, but contrived, health care purpose. We cannot exclude the possibility that a regulated health care professional could seek to misuse the exemption in this way.

However, if a concern was raised that a regulated health care professional was providing non-surgical procedures outwith the permitted premises listed in section 4 of the Bill and for a purpose which did not fall within the health care exclusion in section 1(1)(b), Healthcare Improvement Scotland (HIS) would be able to investigate this using the powers set out in the Bill. It will remain possible for a profession who was claiming that a procedure was undertaken for a health care purpose to have this claim considered through legal proceedings, and they may still be successfully prosecuted.

A regulated professional may also face professional consequences, if they provide inappropriate treatment, act outwith their scope of practice, or rely on their professional standing to act dishonestly.

The risk of legal and professional consequences is likely to be a powerful disincentive to the type of bad faith actions that members envision.

List of regulated health care professionals (section 1(3))

Members indicated that it may be helpful to understand what procedures may be undertaken by, or on the instruction of, the healthcare professionals identified, especially in relation to members of the General Osteopathic Council, General Chiropractic Council and the Health and Care Professions Council.

In general the Scottish Government considers that all the regulated professions identified in the Bill are capable of delivering health care within their own scope of practice, and are bound by the rules and guidance of their regulator. It is clear that some professions are more likely than others to administer or direct procedures for a health care purpose that may be captured by the Bill, but the Scottish Government took a broad inclusive approach to avoid inadvertently restricting healthcare activity. If the exemption were to be narrowed careful consideration would be required with members of the profession concerned.

Turning to specific professions, the Health and Care Professions Council regulates a range of professions, some of whom may become supplementary or independent prescribers. As such these professions may well have cause to prescribe or administer procedures that might otherwise meet the definitions in Schedule 1 of the Bill. For instance a dietician may administer an injection of vitamins to address a deficiency or a podiatrist may rely on injections in the management of foot pain. We understand from engagement with the General Chiropractic Council that their members may use injections of hyaluronic acid, the same substance as used in dermal fillers, in the treatment of joint pain. This activity is not intended to be covered by the Bill.

The Committee in particular wanted to consider whether the members of the General Osteopathic Council were likely to rely on procedures that meet the descriptions in schedule 1 of the Bill. We regret that we cannot provide any specific information in this regard, as we are not aware of any information received about such procedures. We do note that the General Osteopathic Council does provide some specific commentary on procedures, including injections generally and the use of Botox or Dermal Fillers by their members, which draws the attention of their members to other regulatory provisions.¹

Permitted Premises section 4(3)

The purpose of the list of health care professionals included in section 4(3) is to describe the independent clinics which are capable of falling within the definition of “permitted premises” in section 4(1) of the Bill.

Section 3(1) of the Bill provides that it is an offence to provide a non-surgical procedure outwith permitted premises. Section 4 sets out what these “permitted premises” are.

The definition of a permitted premises includes certain settings regulated by HIS and some other healthcare settings - for instance a dental surgery that provides both NHS and private treatments.

The list of health care professionals included in section 4(3) is relevant to the description of any premises of an independent clinic included in section 4(1)(b) of the Bill. To fall within the definition of permitted premises, an independent clinic (defined in section 1(5) of the Bill by

¹ [Injections - General Osteopathic Council.](#)

reference to section 10F of the National Health Service (Scotland) Act 1978), must be registered with HIS and services must be provided or managed by one of the health care professionals listed in section 4(3) – a doctor, dentist or independent prescribing nurse, midwife or pharmacist. These professions can all rely on broad based anatomical and physiological knowledge and all have unqualified prescribing rights.

The definition of an independent clinic in section 10F of the 1978 Act also includes services where services are provided or managed by a pharmacy technician or dental professional (such as a hygienist). These professions are not capable of becoming independent prescribers, nor do they have the same breadth of training. Nurses, midwives or pharmacists who are not independent prescribers are also capable of providing a service that may be registered as an independent clinic, but are excluded purely because they do not have the unqualified prescribing rights highlighted above.

In particular pharmacy technicians and dental professionals are capable of much, whilst highly skilled do not have the same as a nurse, midwife or pharmacist without prescribing rights.

The Scottish Government has also considered if inclusion of other health care professions outwith the current definition of an independent clinic in section 10F of the 1978 Act would be appropriate. This included professionals regulated by the Health and Care Professions Council (such as physiotherapists or paramedics) who are able to access the same prescribing training as can be accessed by nurses, midwives and pharmacists. In considering this the Scottish Government noted that the prescribing rights of these other health care professionals is restricted when compared with the health care professionals listed in section 4(3) of the Bill, for instance in relation to controlled substances, the use of which might be required to treat complications arising from the provision of non-surgical procedures. It also considered that the training of other health care professionals does not necessarily provide the broad base appropriate to being the only health care professional present in a setting from which non-surgical procedures are delivered.

All the professionals who are not included in the list in section 4(3) may well have a valuable role to play in the safe delivery of many non-surgical procedures. If the Bill becomes law they will still be able to undertake procedures as long as they do so in a setting which meets the definition of a permitted premises in this Bill.