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cc. Stuart McMillan
Convener, Delegated Powers and Law Reform Committee

3 February 2026

Dear Convener,

I am grateful to members of the Health, Social Care and Sport Committee for their comprehensive Stage 1 report on the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill, and for the recommendation that the general principles of the Bill are agreed to. I appreciate the committee's considered view, having listened to the evidence shared with them, that patient safety must be the overriding priority. This letter sets out the Scottish Government's response to the other recommendations in the report.

As the current Parliamentary session draws to a close and elections approach, as I am sure the Committee will appreciate, it is not possible for me to commit to some of the recommendations made by the Committee, particularly where financial resource is involved at this stage. However, I value the points which have been raised and I hope the Committee understand why I have deferred from making commitments on matters such as funding of public awareness campaigns. This will be a matter for future Ministers to consider.

Non-surgical procedures – definitions and exemptions

I note the Committee's concern in paragraph 69 of the report. There are two lists of healthcare professionals in the Bill which relate to different sections (sections 1(3) and 4(3)) and which have different purposes:

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- The definition of “non-surgical procedure” in section 1 of the Bill includes a health care exception in section 1(1)(b). This exception is to ensure that the Bill does not regulate procedures provided for a health care purpose. The definition of “non-surgical procedure” does not include procedures which are provided by a health care provider for the purpose of, or in connection with, preventing diagnosing or treating an illness (section 1(1)(b)(ii)). “Health care provider” includes a “regulated health care professional”. Section 1(3) of the Bill explains that a “regulated health care professional” is a person who is regulated by one of the regulators listed in that subsection. This means that procedures provided by one of these regulated health care professionals for the purpose of, or in connection with, the prevention, diagnosis or treatment of illness are excepted from the Bill’s provisions (i.e. these procedures are not a “non-surgical procedure” covered by the Bill).

- Section 3 of the Bill makes it an offence for a person to provide a non-surgical procedure to another person outwith permitted premises. Section 4 sets out the meaning of “permitted premises”. Section 4(3) lists the healthcare professionals who should provide or manage services in an independent clinic registered with Healthcare Improvement Scotland (HIS). This list of healthcare professionals is specific to the description of “independent clinic” in the meaning of “permitted premises” in section 4 of the Bill – i.e. the types of HIS registered independent clinics where non-surgical procedures can be carried out.

It is therefore not the case that any health care professionals regulated by one of the eight Councils listed in section 1(3) of the Bill could register with HIS as an independent clinic and provide or manage services delivering non-surgical procedures from that clinic. The only health care professionals who can do this are those listed in section 4(3) of the Bill (doctors, dentists and independent prescribing nurses, midwives and pharmacists). Other health care professionals regulated by one of the eight Councils listed in section 1(3) of the Bill can still provide non-surgical procedures, but unless they are providing it for a health care purpose which falls within the health care exception in section 1(1)(b) of the Bill, they would have to do so from one of the permitted premises listed in section 4 of the Bill – for example, a HIS registered independent clinic where services are managed or provided by a doctor, dentist or independent prescribing nurse, midwife or pharmacist.

Guidance will be produced which clearly sets out that procedures should only take place in those HIS-registered independent clinics where services are managed or provided by one of the five healthcare professionals listed in section 4(3) of the Bill, as one type of permitted premises. This is distinct from the health care exception in section 1(1)(b) of the Bill which relates to the types of procedure which are not included as a “non-surgical procedure”. Guidance setting out how the healthcare exception applies will support understanding.

The Bill does not enable any groups of healthcare professionals to do anything which they cannot already do as part of their profession. The purpose of the exceptions in section 1(1)(b)(i) and (ii) of the Bill is to ensure that the Bill does not regulate procedures provided for a healthcare purpose. All healthcare professionals, whether they are (1) providing procedures for a health care purpose which falls within the exception in section 1(1)(b) of the Bill or (2) providing non-surgical procedures from a permitted premises, will continue to be

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subject to the regulator applying to their profession and the professional standards that are set for them.

The Scottish Government will work with healthcare professionals to ensure this distinction is clear and the guidance is helpful.

Permitted premises

I am grateful for the Committee's support of the two-tier regulatory system for lower and higher risk non-surgical procedures. As I said during my appearance at Committee on 16 January, my priority is public safety, but I recognise the impact on businesses and acknowledge the Committee's comments at paragraphs 94 and 95 of the report.

The commencement date for the Bill (and related Order) will be September 2027, giving time for businesses to prepare for this regulation. Additionally, officials are looking at means to provide support to businesses who will be making the transition to comply with the requirement to provide procedures from permitted premises, and will work with relevant agencies, such as Business Gateway and Skills Development Scotland, to provide guidance on ways to achieve this.

Clinical oversight

I absolutely agree with the Committee's view in paragraph 124 of the report that establishing clear and appropriate standards in this area will be critical to the Bill's successful implementation and enforcement. I have heard the same concerns from stakeholders throughout the development of the Bill, and, as I have said previously, it is my clear intention that provision is made for this as soon as possible, subject to the implications of the UK Internal Market Act 2020.

As the Committee is aware, officials have been engaging on this topic with their UK Government counterparts, and I wrote to the UK Minister of State for Health, Karin Smyth MP, on this subject on 16 January. The UK Government is aware of our timeframe for this legislation but I will follow up ahead of the Stage 2 Committee meeting if I have not received a response by that time, to help inform our next steps on this issue.

Officials have already begun to look into existing training pathways and the skills that will be required by both healthcare professionals and non-healthcare practitioners to ensure non-surgical procedures can be carried out safety – including in relation to the lower risk procedures which are intended to be covered by the draft Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Amendment Order 2026 (the Order) which was considered by the Committee on 27 January 2026.

While I appreciate the Committee's request in paragraph 123 for further information on the topics that secondary legislation governing training and qualifications will cover, it is not possible for me to do this at this time. Requirements for training and qualifications will in part be shaped by the final form of the Bill, and will require consultation with stakeholders,

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including training providers and Healthcare Improvement Scotland as regulator, to ensure the Scottish Government makes suitable and workable provisions for all providers.

On the Committee's final point in paragraph 124 about training which falls short of recognised standards, it should be noted that The Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011 contain a number of relevant provisions:

- that "a person must not provide an independent healthcare service unless that person is fit to do so";
- that a person is unfit to act as a manger of an independent health care service if they do not have the necessary skills, knowledge and experience for managing the service;
- that a person is unfit to be employed in the provision of an independent health care service if they do not have the qualifications, skills and experience necessary for the work they are to perform;
- that at all times suitably qualified and competent persons are working in the independent health care service in such numbers as are appropriate for the health, welfare and safety of service users; and
- that steps are taken as necessary to address a health care professional's clinical practice or any unsatisfactory performance of a member of staff who is not a health care professional.

HIS will therefore have a role in working with the Scottish Government to determine the level of training which makes a person fit to practice.

Age restriction

I am grateful for the Committee's support of this provision, which gives important protection to children and young people.

Enforcement, offences and penalties

I welcome the Committee's comments relating to penalties in paragraph 158 of the report. I am aware that some stakeholders have expressed concerns that the penalties as set out in the Bill may not be a sufficient deterrent to those who may choose not to engage with the proposals. While the intention was to set penalties in line with those in existing legislation relating to the provision of independent healthcare services as set out in the National Health Service (Scotland) Act 1978, I have asked my officials to look again at the options for penalties in this space.

With reference to paragraphs 159-161, the Scottish Government fully intends to provide businesses with the necessary guidance, support, and, importantly, time, to adapt to the new requirements for permitted premises. While we have begun to determine what this will involve, our plans are not yet developed, and therefore it is not possible to give a detailed response here. Nevertheless we have built up a good picture of the areas where guidance

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and support will likely be required, for example on the distinction between procedures covered by the Bill and those covered by the Order (which can be carried out under local authority licensing), and how supervision of practitioners should operate. We will continue to work with business owners and independent aesthetic practitioners to ensure they have input into this process. We will also look at existing guidance, for example information provided by HIS, to ensure that it is relevant to the types of businesses that will be looking to register with them in order to provide procedures lawfully.

Healthcare Improvement Scotland resources (paragraphs 162-163)

This Bill will scale up the level of activity that HIS undertakes, whether that is in registering new applications or investigating potential offences in businesses that do not register. The Scottish Government will use its existing mechanisms and relationships with HIS to work with them on implementation and enforcement of the Bill's provisions, which are based on HIS' existing role in the regulation of independent healthcare services. As they have a key role to play in making this legislation work, engagement with them on their new responsibilities will be very much a priority over the coming months. This will include discussions on financial resourcing, training of inspection and enforcement officers, fees relating to registration, any necessary new systems and the establishment of links with local authorities and Police Scotland as the Committee have suggested. As I mentioned above, the Bill and related Order will commence in September 2027, which will give time for this work to be done.

I know HIS themselves acknowledged that there is work they need to do, and I am encouraged that they are reviewing their current procedures. Regulation of independent health care should be self-sustaining – the costs of enforcement should be met by the fees charged to providers (rather than met by tax payers). If this is not possible under the current fees regulations or in the timeframe needed to prepare to deliver enforcement on the Bill, Scottish Government will work with HIS to agree how this can be addressed.

Data gathering

I am aware that there is a gap in data relating to the provision of non-surgical procedures, in particular with regard to harms, complications and the resulting cost to the NHS. I agree with the Committee's observation in paragraph 175 that HIS would be well placed to take on this activity, making use of existing data collection models where possible. We are aware that in certain circumstances HIS do gather data, and we can review this with them to see whether this can be more systematically used. We can also consider if there is a role for other bodies, such as Public Health Scotland, to contribute to this work.

Having robust data on the businesses which provide non-surgical procedures, the types of procedures being performed, incidences of complications and the success or otherwise of the treatments used to address complications, will help towards ongoing review of the effectiveness of the legislation and potential future amendments to ensure it stays relevant and up to date.

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Public awareness

I thank the Committee for its comments in paragraph 182 on public awareness, and agree that work in this area will be necessary. This will be developed alongside guidance, as our understanding of the key messages to communicate to businesses, practitioners and the public forms. It may be appropriate for such a work to include material on cosmetic tourism, as the Committee suggests in paragraph 203. We currently encourage anyone considering this to visit NHS Inform where information is available recommending that people do not travel abroad for surgery, and that they consider the potential risks of doing so.

We will work with marketing teams within the Scottish Government, and relevant private and third sectors partners, to ensure that awareness raising is targeted and effective.

Wider issues

As the Committee has observed in paragraphs 201 and 202 of the report, the regulation of advertising of non-surgical procedures and the regulation and classification of the substances used in non-surgical procedures are outwith the scope of the Bill, and they are also matters largely reserved to the UK Government. I agree however with the Committee's view that these are issues that should be addressed.

As the timescales for the passage of the Bill through Parliament before the end of the current session are tight, I intend to ask officials to examine these issues with the UK Government once the Bill process is complete. You will be aware that the UK Government intend to consult on the regulation of non-surgical procedures in England this year before developing their own legislative proposals, and it may be the case that they would be minded to address these matters in their proposals.

DPLRC Report

While not addressed directly by the Committee's report, I acknowledge the recommendation made by the Delegated Powers and Law Reform Committee, to whom I have also copied this response.

I acknowledge their concerns about the breadth of the power in section 5(1) of the Bill, but reiterate my previous comments about this being both necessary and proportionate to the purpose. However, I will certainly consider the need for consultation requirements or guiding principles to be set, as the committee report suggests.

Certification of death and authorisation of cremation

I welcome the Committee's support in paragraph 221 of the report for the changes in Part 2 of the Bill, and note its recognition of the benefits these measures will bring. In particular, the Committee's comments on fairness, efficiency and the reduction of unnecessary delay provide reassurance that the proposed reforms are appropriate and well-targeted.

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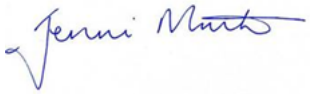
Yours sincerely,



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