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Health, Social Care and Sport Committee

Tuesday 24 February 2026

Session 6

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HEALTH, SOCIAL CARE AND SPORT COMMITTEE
9th Meeting 2026, Session 6

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Paul Sweeney (Glasgow) (Lab)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)
*Sandesh Gulhane (Glasgow) (Con)
*Emma Harper (South Scotland) (SNP)
*Gillian Mackay (Central Scotland) (Green)
*Carol Mochan (South Scotland) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jeremy Balfour (Lothian) (Ind)
Maurice Golden (North East Scotland) (Con)
Fulton MacGregor (Coatbridge and Chryston) (SNP)
Stuart McMillan (Greenock and Inverclyde) (SNP)
Jenni Minto (Minister for Public Health and Women's Health)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The Alexander Fleming Room (CR3)

Scottish Parliament

Health, Social Care and Sport Committee

Tuesday 24 February 2026

[The Convener opened the meeting at 09:00]

Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill: Stage 2

The Convener (Clare Haughey): Good morning, and welcome to the ninth meeting in 2026 of the Health, Social Care and Sport Committee. I have received no apologies.

Our first and only agenda item is consideration of the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill at stage 2. I will briefly explain, for anyone watching, the procedure that we will be following during today's proceedings.

Members should have with them a copy of the bill, the marshalled list and the groupings. Those documents are available on the bill web page on the Scottish Parliament's website, for anyone observing.

I will call each amendment individually in the order on the marshalled list. The member who has lodged the amendment should either move it or say, "Not moved," when it is called. If that member does not move the amendment, any other member present may do so.

The groupings of amendments set out the order in which they will be debated. There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all other amendments in the group. I will then call other members with amendments in the group to speak to—but not to move—their amendments and to speak to other amendments in the group if they wish to do so.

I will then call any other member who wishes to speak in the debate. Members wishing to speak should indicate as much by catching my attention or the attention of the clerk. I will then call the minister, if she has not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether they wish to press or withdraw the amendment. If the amendment is pressed, I will put the question on it. If a member seeks to withdraw an amendment after it has been moved and debated, I will ask whether any member present objects. If there is an objection, I will immediately put the question on the amendment. Later amendments in the group are not debated again when they are reached. If they are moved, I will put the question on them straight away.

If there is a division, only committee members are entitled to vote. Voting is by a show of hands. It is important that members keep their hands raised clearly until the clerk has recorded their names. If there is a tie, I must exercise a casting vote.

The committee is also required to consider and decide on each section of and schedule to the bill and the long title. I will put the question on each of those provisions at the appropriate point.

At the bill's introduction, the Presiding Officer determined that a financial resolution was not required for it. Under rule 9.12.6C of standing orders, the Presiding Officer has determined that the costs associated with amendment 105 would exceed the current threshold at which a bill requires a financial resolution. Therefore, in stage 2 proceedings, amendment 105 may be debated but may not be agreed to in the absence of a financial resolution.

The Presiding Officer has also ruled that amendments 36, 37, 50, 52, 54, 93, 94, 98 to 100, 104, 28, 106, 59, 107 to 111 and 35 are cost-bearing amendments. However, the potential cumulative cost of the amendments would not require a financial resolution. As such, those amendments and any amendments that would be consequential on them will be debated and the questions will be put on them as normal at stage 2.

Section 1—Meaning of "non-surgical procedure"

The Convener: Amendment 5, in the name of the minister, is grouped with amendments 28, 30 and 34.

The Minister for Public Health and Women's Health (Jenni Minto): As this is the first group of amendments to be considered, I will make some quick general comments. I thank committee members for their consideration to date. This is a complex bill and I am grateful for your diligence in considering the issues. Today, I will be moving or supporting amendments that strengthen or clarify the bill without changing its fundamental character or the balance that it must strike to protect public safety without disrupting healthcare or causing unnecessary disruption to business.

I am grateful to those members who have lodged amendments. We are all committed to improving public safety. Some amendments seek to address concerns about the impact of the bill on

businesses—especially rural, small and female-led ones. I want to be clear that, when I oppose such amendments, I understand the place that they are coming from. I will address my reasons in the relevant groups.

Amendments 5, 28, 30 and 34 provide a way to allow Scottish ministers to establish training and qualification standards for practitioners, working within the constraints of the United Kingdom Internal Market Act 2020. I shared our understanding of the effect of UKIMA with the committee through the correspondence that I directed to UK ministers. I have not yet received a response.

Part 3 of UKIMA establishes an automatic recognition principle whereby a professional who is qualified in one part of the UK is automatically treated as being qualified in another part of the UK. The effects of part 3 of UKIMA mean that the Scottish Government is currently unable to set standards for qualifications or experience for individuals providing non-surgical procedures in the bill in the way that we would like.

Section 26 of UKIMA provides a partial remedy to that. The individual assessment process under that provision would allow someone to have their existing training or qualifications assessed when they were different from those specified, to ensure that they were equivalent to those required in, or met the standards that we establish for, Scotland. We still need to work with the UK Government on a long-term solution, as that is a cumbersome one. Nevertheless, I want to take the available option, which would allow us to progress with setting standards by following that route.

We are pressing the UK Government to resolve the issues with UKIMA by repealing the act and replacing it with a more equitable, co-designed system built around the common frameworks approach.

I know that many members are pushing for training and supervision standards. To them, I say that this is a necessary first step. I urge members to support amendments 5, 28, 30 and 34.

I move amendment 5.

The Convener: No other member has indicated that they wish to speak to amendment 5. I call the minister to wind up.

Jenni Minto: The amendments are necessary to meet the ambition to set training standards in the future.

Amendment 5 agreed to.

The Convener: Amendment 6, in the name of the minister, is grouped with amendments 7, 8, 64, 65, 36, 37, 10, 38, 11 to 17, 39 and 18 to 21.

Jenni Minto: I am pleased to speak to this group, which includes amendments on several issues relating to the fundamental definition of a non-surgical procedure. I will start by considering the amendments that relate to the healthcare exception provided by section 1 of the bill.

We have been clear throughout the process that the bill is not designed to regulate, restrict or interfere with the delivery of healthcare in any setting. The bill achieves that by providing that any procedure that is undertaken for, or under the direction of, a healthcare professional is not a non-surgical procedure. There should, for example, be no offence committed if a treatment for a healthcare purpose by a regulated healthcare professional is given to a child. As well as not interfering with healthcare delivery, we also want to ensure that we do not inadvertently capture under the bill's provisions procedures carried out as part of clinical trials, which are already regulated elsewhere.

My amendment 6 will make it clear that procedures that are carried out as part of a clinical trial within the meaning given by regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004 will not be covered by the provisions of the bill. That is required because certain procedures undertaken as part of such trials may not be covered by the existing healthcare exception in section 1(1)(b) of the bill. In a clinical trial, a person who has no illness may receive a procedure if, for example, possible side effects are being investigated.

Amendments 7 and 8 are technical amendments that correct and clarify references to the licensing of non-surgical procedures under the Civic Government (Scotland) Act 1982. I hope that they are uncontroversial amendments.

Sandesh Gulhane's amendments 64 and 65 also relate to the healthcare exception. The amendments would remove the General Osteopathic Council and the General Chiropractic Council from the list of healthcare professionals who can undertake or direct procedures that would be considered exempt from the bill. Dr Gulhane has raised the issue in previous evidence sessions, and I am happy to reiterate some of my comments for the record today. This bill is not the place to judge what does and does not constitute healthcare, nor whether particular healthcare procedures are appropriate or effective in the treatment of disease. I can, however, inform the committee that both chiropractors and osteopaths use injections of hyaluronic acid as part of their practice. I understand that the committee has received correspondence on the matter. Whether that practice is effective or appropriate is between those professionals and their regulators.

I know that some committee members are concerned that the healthcare exception is essentially a loophole, so I wish to offer some reassurance on that point. In order to fall under the healthcare exception, a regulated healthcare professional carrying out a procedure regulated by the bill must have a healthcare purpose, and if a prosecution was brought against an individual, the presence of such a healthcare purpose may be considered by the courts. Such bad-faith activity is likely to lead to professional consequences as well. The Scottish Government considers that amendments 64 and 65 may raise concerns about their interaction with the reservation of the regulation of health professions in the Scotland Act 1998.

For those reasons I urge Dr Gulhane not to move those amendments, although I am happy to hear any views that he may have on the matter.

I will now turn to the amendments that relate to the power in section 1(5) to modify schedule 1. I remind members that amendment 35, in my name, which is to be debated under group 7, imposes a consultation requirement on all exercises of affirmative powers under the bill, including the power to modify schedule 1. I trust that that amendment will be supported, as it addresses the recommendations made by the Delegated Powers and Law Reform Committee at stage 1.

In the scenario where an entirely new procedure emerges, it is best that ministers can move fast and regulate such procedures quickly. If the advice that we receive is that such a procedure has a risk profile that is equivalent to procedures already included in the bill, it is reasonable, I think, that ministers should have the scope to list such a procedure in schedule 1, on the best evidence available at the time. That consideration would naturally form part of a policy note and any impact assessments.

Amendments 36 and 37 would add to that and would make the exercise of the regulation-making power harder, preventing the Scottish ministers from acting quickly when required. In turn, that would have public safety implications and a negative impact for potential clients and practitioners alike. For those reasons, I ask Jeremy Balfour and Maurice Golden not to move the amendments in their names.

I now turn to amendments to schedule 1. Amendments 10 to 21, which are in my name, make several important changes, largely of a technical nature or where the effect of the schedule will be unchanged from its original intent. Amendments 10 and 16 remove the paragraph headed “Cellulite subcision” and insert a new one headed “Subcision”. The text and the effect are unchanged, but the amendment reflects the point that subcision can be used for other purposes, such as improving the appearance of pitted scars.

Amendments 11, 12 and 21 amend the schedule 1 entries for injectable or intravenous non-surgical procedures in order to limit them to those provided for a cosmetic or wellbeing purpose. A cosmetic purpose relates to a person’s appearance; a wellbeing purpose is one that provides an actual or perceived improvement in the person’s physical, mental or emotional wellbeing, their physical strength or stamina, their ability to concentrate or their mental alertness. The change provides additional clarity but continues to deliver the bill’s intent of regulating procedures undertaken for those reasons. It prevents any procedures or activities carried out for other purposes from being inadvertently captured.

Amendments 18 and 19, in my name, amend the definition of “substance” to make it clear that controlled drugs and psychoactive substances are not included. Those are not used in non-surgical procedures, so it is appropriate to exclude them from the definition of “substance”.

Amendments 13 and 17, also in my name, address the boundaries between schedule 1 to the bill and schedule 1 to the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026. That Scottish statutory instrument introduces a local authority licensing scheme that regulates lower-risk non-surgical procedures. A procedure, even if it would otherwise be low risk, becomes higher risk when a prescribed anaesthetic is used or when it is carried out on an intimate area. With the exception of intimate laser hair removal, such procedures are excluded from the SSI. Amendments 13 and 17 provide that those procedures are regulated by the bill instead. Those procedures carry additional risks, which are better managed in a permitted premises, where there will be healthcare professional involvement.

09:15

Amendments 14 and 15 clarify the definition of “microneedling” to ensure that a procedure that involves an injection or intravenous administration of a substance is captured by the relevant paragraphs, not paragraph 7. Amendment 14 provides that microneedling will include the use of

“one or more microneedles … multiple times on a single occasion”.

That definition will help to avoid confusion with other procedures, which might also use a fine needle.

Amendment 14 also provides that when microneedling, no matter the depth, is used to deliver radiofrequency electromagnetic radiation,

that procedure is regulated by the bill. That is considered a riskier procedure because it carries increased risk of harm, including burns, excessive scarring and damage to nerves and blood vessels.

Procedures that are covered by the local authority licensing scheme under the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006, which extends to acupuncture, cosmetic body piercing, electrolysis and tattooing that are provided in the course of a business, are already exempted from the bill by virtue of section 1(1)(b)(iii). However, amendment 15 ensures that those procedures are also exempted when they are carried out in circumstances that do not require a licence under the 2006 order—for example, when not carried out as part of a business in someone's home. It was never the intention of the bill to regulate those procedures, which did not form any part of the consultation process.

Amendments 38 and 39, in the name of Maurice Golden, relate to procedures such as skin boosters and mesotherapy. Mr Golden has made the case—which I, too, have heard—that those procedures carry less risk than other procedures considered in schedule 1. I should be clear that that is not universally accepted, and I am sure that Mr Golden would accept that that does not mean that those procedures are risk free. Any introduction of a substance into the body carries some risk. The substances that are used in those procedures are wide ranging, which makes that risk hard to assess.

I have also heard concerns that those procedures, especially skin boosters, use similar products and similar, if not the same, needles and other equipment as procedures such as dermal fillers. If amendment 38 is successful, there is a risk that it will make the work of local authority officers much harder in ensuring that licensed premises are carrying out only the procedures that they are entitled to carry out.

My guiding principle has been that procedures should be included in the bill only when that is absolutely necessary to protect public safety. I would be happy to discuss those changes further, ahead of stage 3, with Mr Golden and other members.

I urge members to support amendments 6 to 8 and 10 to 21. I repeat my willingness to work with Mr Golden, and on that basis I ask him not to move his amendments until we have discussed them ahead of stage 3. I also ask Jeremy Balfour and Sandesh Gulhane not to move their amendments in this group.

I move amendment 6.

Sandesh Gulhane (Glasgow) (Con): I declare an interest as a practising national health service general practitioner.

I will start with amendment 6, and I would like to directly ask the minister about it. I support the idea of clinical trials not being part of the bill, so the amendment makes sense. My only concern is about ensuring that they are real clinical trials, not something that somebody says is a clinical trial. There could be wording in the bill to strengthen the provision—for example, by requiring the trial to have gone through an ethics committee, to ensure that it is a clinical trial that the ethics committee has agreed is acceptable. That is not to say that I will not support amendment 6, but I would like to see a tweak made when we come to stage 3.

Turning to amendment 64, the minister said that this is not the place to debate what does and does not constitute medicine. However, there is no reason why an osteopath should inject somebody; that is simply not part of the job of an osteopath. Whether we agree that osteopaths have any place in science and medicine can be debated at stage 3, but there is no reason for an osteopath to inject anybody, and osteopaths are unable to prescribe medicines. For that reason, I do not see why osteopaths should be in the bill. Chiropractors are different, because they do a lot of work in the NHS. However, given that hyaluronic acid is being injected, I might not move the amendment and might instead bring it back at stage 3.

On Maurice Golden's and Jeremy Balfour's amendments, I support the principle behind ensuring that some reasoning be given for why a procedure is being added to the bill, but I do not want a huge amount of extra work to be required to do that, which could slow down the inclusion of new procedures in the bill or make that too cumbersome or difficult. I support the principle, but the issue needs work before it can come back at stage 3.

Maurice Golden (North East Scotland) (Con): As a result of an article appearing in a national newspaper today, I should put on the record that my girlfriend works in the aesthetics sector. Private lives should remain such. I have no financial links to the sector and am happy to speak privately to members following the meeting.

Amendment 36 is intended to prevent the expansion of scope without evidence, enforceability, assessment or consultation. Amendments 38 and 39 make the case that, as the minister has highlighted, there is less risk with the procedures to which the amendments refer. However, I accept the minister's argument that those procedures are not risk free. My intention is not to move the amendments at stage 2.

Jeremy Balfour (Lothian) (Ind): Good morning to the minister and her team.

My amendments are the result of, first, my discussions with a number of constituents who have raised concerns with me about the bill and, secondly, a number of emails from and meetings with the Federation of Small Businesses, which has, again, expressed concerns about the bill.

Amendment 37 would require the Scottish ministers, before adding any new procedures to schedule 1, to carry out a formal risk assessment and consult representatives of the beauty and aesthetics sector, small businesses and other relevant stakeholders. Whenever we introduce something that will make a change, it is important that we get the balance right between ministers being able to act quickly and the appropriate consultation taking place. Amendment 37 would introduce a clear safeguard into the bill to ensure that any future expansion of the regulatory regime was preceded by proper evidence gathering and meaningful engagement with those affected. That would prevent a certain group or lobby from being able to go ahead without the proper consultation. It would also protect the bill—which will, hopefully, exist for a number of years—if ministers cannot go down alleys that the rest do not agree with.

The amendment would not remove or limit ministers' ability to amend schedule 1. Instead, it would ensure that their power was exercised through a defined and transparent process. Decisions to bring additional procedures within scope would need to be supported by an assessment of safety risks, consumer protection concerns and economic impact, and would need to be informed by the views of practitioners and businesses that would be directly affected by any change.

I think that we all agree that the regulation of non-surgical procedures is a fast-moving area. New treatments and techniques are introduced regularly, and public concern about safety continues to evolve. Therefore, it is likely that, over time, proposals will be made to expand the list of regulated procedures. Although it is important that ministers are able to respond to emerging risks, it is equally important that any expansion is proportionate and based on clear evidence of harm. At the moment, I do not see there being a role for others to raise concerns about any proposal that is made. Will there be any consultation with those who carry out the work?

The sector is made up largely of small businesses and microbusinesses, many of which operate with limited administrative resources and on tight margins, which means that regulatory changes can have a significant financial and operational impact. Even well-intentioned reforms might lead to higher compliance costs, service restrictions and unintended barriers to entry.

Amendment 37 seeks to ensure that future decisions take account not only of safety but of practical delivery, workforce implications and economic sustainability. It seeks to embed in the operation of the bill transparency, accountability and evidence-based decision making. In doing so, it supports an approach that would be responsive to risk but that would also be measured and would help the sector to respond in a predictable way.

If amendment 37 was agreed to, ministers would retain the ability to add new procedures, where that was justified. However, that power would be exercised within a clear and accountable framework. Businesses and practitioners would have greater confidence that changes would not be introduced without proper scrutiny and consultation. In addition, the quality of future regulatory decisions would likely improve, as stakeholder input would inform policy at an early stage.

In summary, amendment 37 would ensure that flexibility was balanced by responsibility. It would allow ministers to respond to new risks while ensuring that expansion of the regime was evidence based, proportionate and properly consulted on. I would have thought that that is what good laws should look like, and I am surprised that, at the moment, the minister seems unwilling to accept the amendment. I look forward to hearing her closing remarks.

Joe FitzPatrick (Dundee City West) (SNP): I am very sympathetic to Dr Gulhane's amendments 64 and 65. I wonder whether the minister would consider agreeing to discuss those amendments further with Dr Gulhane in advance of stage 3, and, if she agrees to do that, whether Dr Gulhane will agree not to move them at this stage.

Jenni Minto: I am grateful to members for their contributions to the discussion on this group, which covers some very important issues. The complexity of aspects of the discussion illustrates the importance of the power to amend schedule 1 so that we can ensure that the bill remains up to date, even as the range of procedures on offer changes. I welcome the support for my amendments.

With regard to Dr Gulhane's point about amendment 6, on clinical trials, such trials are regulated by the 2004 regulations. Those regulations cover only regulated trials.

With regard to the point that Joe FitzPatrick made about Dr Gulhane's amendments 64 and 65, I am content to continue to discuss those amendments—and any other amendments—with Dr Gulhane as we move to stage 3.

Sandesh Gulhane: Would the minister consider changing "clinical trial" in amendment 6 to "regulated clinical trial"?

Jenni Minto: I would be very happy to discuss that with Dr Gulhane in the lead-up to stage 3.

I am content to consider discussions with Mr Balfour on his amendment 37, because I absolutely understand where it is coming from with regard to the underlying issues.

I welcome the indication that Mr Golden will not be pressing his amendments in the group. However, if he decides to press them, I ask members not to support them, and I will continue discussions with him into stage 3.

09:30

I remind members that I already intend that a consultation requirement will be added to all the affirmative powers in the bill, so I hope that you all agree that it is unnecessary to put in place a further requirement, especially one that will prevent that power from being used effectively.

I urge members to support the amendments in my name, which are critical to ensuring that the bill captures the intended procedures but does not capture anything else and that it works effectively with the licensing statutory instrument.

I press amendment 6.

Amendment 6 agreed to.

Amendments 7 and 8 moved—[Jenni Minto]—and agreed to.

The Convener: Amendment 9, in the name of the minister, is grouped with amendments 22, 22A to 22D, 40, 23, 68, 69, 24, 41, 71, 25, 42, 43, 73, 44, 31, 112, 113, 60 and 61. If amendment 22 is agreed to, amendment 40 will be pre-empted.

Jenni Minto: This group of amendments goes to the heart of the bill. It contains amendments to section 4, which sets out the most important public safety provisions on where non-surgical procedures can be carried out and the need for healthcare professional involvement in those settings. Those are the issues that have been the subject of most of the correspondence and representations that I have received, and I must make it clear that I have listened carefully to all sides of the discussion.

I will start by discussing my amendments. Amendment 22 is the most substantial. It does not add to or remove any setting from the list of permitted premises, but it provides additional clarity about those premises. Amendment 22 will replace the existing sections 4(1) and 4(2) with a new section 4(1). The new subsections (1)(a) and (1)(b) provide new drafting so that the permitted premises for Healthcare Improvement Scotland-registered independent clinics and independent hospitals are those where the address is entered in the register that is maintained by HIS. Subsection (1)(a)(ii) makes it clear that an independent clinic can include a vehicle. Paragraphs (c) to (f) of subsection (1) are the same as provisions in the bill at introduction, but with minor technical drafting changes.

Amendment 25 will amend section 4(5) to include definitions that relate to new subsection (1). Amendments 9, 23, 24 and 31 make technical drafting changes that are proposed as a consequence of amendment 22. The changes address concerns raised by HIS in evidence to the committee about the clarity of those provisions.

The inclusion of vehicles might surprise some members, but, in the case of dental settings, mobile settings were included in the bill at introduction, and the inclusion is consistent with how those settings can already operate. In the case of a HIS-registered independent clinic, that has been made explicit, recognising that it is possible but not easy for a vehicle to be equipped in the same way as a traditional clinic. For example, such vehicles already provide dental scanning and blood donation services within the NHS. I assure members that independent clinics that are vehicles would be inspected by HIS and would be expected to meet the same standards as fixed premises in relation to the appropriateness of fixtures and fittings.

Amendment 22 also makes it clear that procedures must not be carried out from clients' homes. It would, however, be possible for a clinic to be established out of rooms in a provider's home or in a purpose-built outbuilding, because, again, such a setting can still be inspected by HIS and be held to the same standards as any other clinic.

I urge members to support all the amendments in my name.

I will now turn to other members' amendments in this group and the clear themes that they fall under. Amendments in this group take a variety of approaches. Amendments 22D and 73 would create an additional category of HIS-regulated setting. Amendments 40, 44 and 61, amendments 68 and 71 and amendments 69 and 113 would amend requirements of existing categories of HIS-regulated settings.

Other amendments would provide for new licensing or registration schemes, such as amendments 22A, 41, 42 and 60, on licensed non-healthcare premises, amendments 22B and 43, on community clinics, and amendments 22C and 112.

A number of these amendments seek to allow businesses to operate without healthcare

professional involvement. In respect of the proposed licensing schemes, the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026 has recently been approved by the Scottish Parliament in order to introduce a local authority-run licensing scheme for lower-risk non-surgical procedures. It is intended that the licensing scheme under the order and the regulation of higher-risk procedures under the bill will both commence at the same time. As such, there is no need for any amendment that introduces a new licensing scheme.

I appreciate that all of these amendments seek to address business concerns around the impact of the bill, with the focus being the cost and practicality of having a healthcare professional always present in a setting. I will take this opportunity to explain why I believe that the presence of a healthcare professional is essential.

All the procedures currently described in schedule 1 to the bill carry some risk. Many of them require the use of a prescription-only medicine, and the remainder are all likely, in varying degrees, to require the use of a prescription-only medicine in addressing complications. We heard during the debate that these complications may not emerge immediately. However, I have clinical advice on and examples—some of which were shared in Parliament by Dr Gulhane—of complications emerging or being identified immediately and requiring immediate action to prevent serious adverse outcomes.

In these cases, someone needs to be available to assess the situation and have the ability to prescribe or administer the relevant medication. The setting needs to hold supplies of such emergency medication. Non-regulated settings delivering non-surgical procedures are not able to routinely hold supplies of prescription-only medicines without the involvement of a suitably qualified healthcare professional. I cannot endorse any proposal that could allow procedures to continue to be undertaken without access to emergency medicines.

With specific reference to amendments 44 and 61, which are linked with amendment 40, which seek to create a prescription-only medicine governance process, and amendments 69 and 113, which would require an arrangement for named prescribers to be attached to each permitted premises, there are concerns about the effect of these amendments on the reservation of the subject matter of the Medicines Act 1968 in the Scotland Act 1998.

There are other advantages to the presence of a healthcare professional in settings that provide non-surgical procedures. For example, a healthcare professional's involvement in consultation can support fully informed consent and consideration of risks, particularly with regard to existing health conditions. A healthcare professional also offers the wider assurance of professional regulation. Complaints can be made against such professionals to professional regulators, with serious consequences if they are upheld. This is not the case for practitioners who are not healthcare professionals.

For all those reasons, I urge members not to move amendments that would in any way undermine the connection between a permitted premises and the presence of a healthcare professional.

Again, I urge members to support the amendments in my name.

I move amendment 9.

The Convener: Maurice Golden will speak to amendment 22A and other amendments in the group.

Maurice Golden: I have lodged probing amendments on two areas, the first of which is permitted premises. The rationale behind those amendments is that they would allow permitted premises to be outwith a healthcare setting if they were able to meet the safety criteria, which is where I believe the committee and the Parliament are coming from.

The route of allowing licensed non-healthcare premises could be aligned to risk level, infection control standards and inspection requirements. That would allow services to operate safely while maintaining accessibility for communities. Aligning premises requirements with the risk and complexity of procedures would support patient safety while avoiding unnecessary service closures or market consolidation.

My second set of amendments is about prescribers on premises and explores the idea that the default model of requiring a prescriber to be physically present on premises risks creating barriers to service provision. The amendments acknowledge that patient safety is determined not by physical presence alone but by clear governance, accountability and access to appropriately qualified prescribers when clinically required. A named prescriber model within a defined geographical radius, supported by robust protocols, escalation pathways and remote availability, would reflect how prescribing oversight already functions safely and lawfully in the majority of healthcare and aesthetic settings.

Stuart McMillan (Greenock and Inverclyde) (SNP): Before I speak about amendment 22C, I thank the minister for taking the bill forward and for listening to concerns from the sector. Safety is the paramount driver for me. When I engaged with the

Scottish Government on the bill, that issue always pushed me forward, because we cannot put a price on people's safety. Some of the amendments that I have lodged might be considered to counter the safety aspect, but I will deal with those issues in due course.

Amendment 22C is quite simple in theory, but I appreciate that it might well be challenging to deliver, and I have noted the minister's comments. Since 2018, I have spoken to medics and non-medics who are involved in the industry. When the Scottish Government's consultation proposed the creation of three categories, it was clear to me that it would be hardest to find a solution for people in relation to group 2, as I referenced in the stage 1 debate. The amendment proposes to assist in that regard.

Fundamentally, there is no regulation for parts of the sector, so trying to formalise the sector's position is crucial. Creating registration requirements is vital in that regard, and I suggest that having a register of premises managed by a non-healthcare professional would be a positive start.

If a non-registered practitioner undertakes a procedure that goes wrong, what is the penalty? There is none. However, if a registered practitioner, via HIS, undertakes a procedure that goes wrong, there are penalties and there is also reputational damage.

Amendment 22C is an attempt to introduce a level of professionalism for those who would qualify. There would need to be a full consultation on what was required in the proposed regulations, and the bill has been drafted in a way that would allow that consultation to take place once the principle had—I hope—been agreed to.

We need to consider regulation and provide a pathway for upskilling. The size of the industry is increasing, and we are responsible for trying to make it safer. Given that new procedures are occurring at pace, flexibility in many of the regulatory powers following consultation would be helpful, although such an approach would not be welcomed across the Parliament for every bill. The minister referred to the Delegated Powers and Law Reform Committee, which highlighted that aspect as part of our inquiry into framework legislation earlier in the session.

Amendment 22C is about establishing the principle that those who qualify must be registered.

Amendment 68 would further support the principle of non-medics needing to be registered to have a permitted premises. Again, that is about professionalising the sector. We all know that some people have spent a great deal of money on training and on premises, so allowing those who qualify to register as a permitted premises would be positive. However, as has been said, a regulatory aspect comes with that responsibility.

09:45

Amendment 71 proposes to highlight the level of training that some people in the sector already have, although they have not been medically trained. Under the Scottish credit and qualifications framework, level 11 includes a master's qualification, a postgraduate diploma and a postgraduate certificate. The position is similar in Wales and, in England and Northern Ireland, that level is equivalent to level 7 under vocational training and professional qualifications.

My amendment seeks to provide a baseline of qualifications that would allow people to work in the sector. Achieving a postgraduate qualification is difficult and challenging and takes a huge amount of time and effort, as I know from undertaking an MBA some years ago. Having a baseline could provide an opportunity for upskilling, particularly for those who want to remain in the sector. I am aware that Glasgow Caledonian University is working on a course and has another that is ready to go.

HIS's clarification of the interpretation of regulation 12 of the Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011 is helpful, considering the minimum qualifications that are required. I appreciate that, if non-medical practitioners are to be regulated via HIS, it will impact their function and their costs. However, the fundamental issue of client safety will be paramount. The sector is growing and, if we want it to do so safely, qualifications, upskilling and stringent regulations for new entrants must apply.

Amendment 112 is a technical amendment to ensure that regulations would be made under the affirmative procedure and scrutinised in the Parliament. The Delegated Powers and Law Reform Committee referenced that in a report that it published earlier in the session.

Sandesh Gulhane: I will make general comments on this group of amendments. If we are talking about permitted premises under HIS standards, we are saying that a basic standard needs to be applied to anything that has a medical context. I think that it would surprise many people that, in a medical setting, you cannot use a normal fridge; you have to use a medical-grade fridge to store medicines, toxins and lots of other things, and you need to have documentation on the temperatures of the fridge. You need to ensure that there is a clear chain of documentation that notes when the medication was taken out of the fridge, when it was used and when it was binned.

I am pretty sure that fizz and filler parties, which we have spoken about in the committee, would not follow that advice.

We are also talking about cleaning surfaces. When you go to see a GP or a dentist, you simply would not accept sitting on equipment that cannot be cleaned or is not clean. We should guard against anything that would water down HIS standards for injections and what I would suggest are medical interventions.

On the physical presence of a prescriber, we need to make clear exactly what we are talking about. I have two issues with that. For many years, I worked in orthopaedics, and I often operated alone in a theatre. However, the surgical list was never in my name; it was in the consultant's name. Despite how senior I was, the consultant was in charge of the list. Other consultants and other people who were around could come in if something went wrong. That would be the case for a simple surgical procedure such as a carpal tunnel operation, which you would expect someone to be able to do at a junior level. It is not as straightforward as simply letting someone crack on with it.

I would like to discuss this with the minister at stage 3, but I am very concerned about the idea of giving blank prescriptions. For medical devices or prescription medications, you need to be given a prescription that is cashed before the medication is used. Someone could be writing a blank prescription for botulinum toxin, which is the most deadly toxin there is, and have no idea how it is being used, who it is being used on, the appropriateness of its use or the documentation on informed consent.

I have a real worry. As a GP, I trust allied healthcare professionals, and I trust advanced nurse practitioners, who have been doing their job for 20-odd years. I would not give them a blank prescription for antibiotics. If they thought that their patient needed something, they would discuss that with me or they would independently prescribe for their patient. I would not give them a blank prescription for cancer meds.

Emma Harper (South Scotland) (SNP): Botulinum toxin comes in a multidose vial, so one vial would be used for more than one person. That raises issues of the traceability of that vial, its expiry date and the dosing, which might be different for each recipient.

Sandesh Gulhane: I would agree. Further, the documentation about when the vial came out of the fridge and went back in the fridge, and how long it had been open for, is vital when it comes to assessment by HIS of what you are doing and whether you are doing it safely. I do not think that all providers are taking that approach right now. I am sure that some providers are—I will not say, in a blanket way, that everyone is not doing things—but if we do not have regulations, we will not know what we should or should not be doing, and therefore we will not know whether we are following procedure. That is my worry when it comes to watering down HIS standards.

The idea of the blank prescription is that someone can crack on and prescribe, although the person who wrote the prescription does not really know what is happening with it and has not had a discussion about each patient and what is being done. We should look at that, because I am pretty sure that it is not the point of being an independent prescriber, such as a pharmacist, to give out blank prescriptions.

Jenni Minto: I am grateful to members for the points that they have raised and I urge them to support amendments 9, 22 to 25 and 31. I ask Maurice Golden and Stuart McMillan not to move the remaining amendments in the group.

The amendments in my name are necessary to ensure that the "permitted premises" definition is as clear as possible for providers of non-surgical procedures and for HIS as the enforcing body. The other amendments in the group would undermine the core safety protections that the bill offers.

I will touch briefly on Dr Gulhane's points about prescriptions. We are having conversations about those issues with the UK Government and the Medicines and Healthcare products Regulatory Agency. As you know, the matter is reserved. I acknowledge Dr Gulhane's points and I am happy to discuss them further. HIS looks at such circumstances in its reviews and would refer any issues that it spotted to the MHRA.

I will repeat what I have said elsewhere, which is that I do not want to disrupt business unnecessarily, but nor am I willing to compromise on safety in order to reduce disruption. I am happy to continue to work with members on other approaches to mitigate the impact on businesses, including existing business support and any guidance that we can provide.

I want HIS to work with the Scottish Government to ensure that all its standards and requirements are appropriate to the services that it regulates and to consider any statutory standards in the same context. There is scope to make changes to regulations to better accommodate settings that do a mixture of procedures and other beauty treatments. I am happy to share more detail on that by correspondence.

In the lead-up to and during stage 3, I would be happy to hear any other suggestions from members on steps that might mitigate the impact on businesses.

Amendment 9 agreed to.

The Convener: Does Sandesh Gulhane wish to move amendment 64?

Sandesh Gulhane: I feel that removing osteopaths from the bill is important, so I move amendment 64.

The Convener: The question is, that amendment 64 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 64 disagreed to.

Amendments 65 and 36 not moved.

The Convener: Does Jeremy Balfour wish to move amendment 37?

Jeremy Balfour: In the light of the minister's remarks, I will seek further conversations with her and will not move amendment 37.

Amendment 37 not moved.

Section 1, as amended, agreed to.

Schedule 1—Specified non-surgical procedures

Amendment 10 moved—[Jenni Minto]—and agreed to.

Amendment 38 not moved.

Amendments 11 to 17 moved—[Jenni Minto]—and agreed to.

Amendment 39 not moved.

Amendments 18 to 21 moved—[Jenni Minto]—and agreed to.

Schedule 1, as amended, agreed to.

Section 2—Offence of providing a non-surgical procedure to person under 18

The Convener: Amendment 1, in my name, is grouped with amendments 2 to 4.

I thank the Scottish Government for working with me on the amendments in this group. The provisions in the bill that relate to age restrictions are important and were strongly supported by the committee. The amendments support and future proof the bill's approach to age verification.

In November, the First Minister announced the Scottish Government's intention to develop an app, which, among other things, will eventually provide a form of digital age verification. It is clear that, in future, businesses and services will be able to verify age using a wider variety of means than by asking people to produce traditional printed identification documents.

Amendments 1, 2 and 3 would remove the list of acceptable documents for age verification in section 2(4), and the ministerial power to amend that list in section 2(6), and replace them with a provision to allow the Scottish ministers to specify in regulations the steps that can be taken to establish a person's age for the purposes of providing a non-surgical procedure.

10:00

Due to the changes that would be made by amendments 1, 2 and 3, amendment 4 would make a technical change to section 19(3), which sets out the regulation-making powers that are subject to negative procedure, to update the reference to the regulation-making power in section 2 from section 2(6) to section 2(3). The list of acceptable documents will need to be reintroduced by ministers via regulations before section 2 comes into force.

Ministers will also need to consider whether digital forms of age verification can be relied on by businesses that are providing those services. That digital age verification might not look like a traditional document and would therefore not be captured by the original power to add to a list of documents, which is why the change is required now.

The changes will future proof the bill, allowing for potential recognised digital forms of age verification, such as a digital proof-of-age app, to be included. The approach aligns with amendments that are proposed for other Scottish legislation, such as the proposed amendments to sections 4 and 4A of the Tobacco and Primary Medical Services (Scotland) Act 2010, ensuring consistency in age verification processes.

The power to make regulations on acceptable proof of age remains technical and will continue to use the negative procedure, allowing for flexibility and scrutiny without substantive policy changes.

I move amendment 1.

Jenni Minto: I fully support the amendments. The bill currently includes a list of acceptable forms of identification that allow providers to confirm that a person is at least 18 years of age and can receive a procedure. That approach has been taken in previous legislation.

As noted, in November 2025, the First Minister announced that an app will be launched in 2026. As that will at some point include digital proof of age, the bill should allow regulations to be made that can provide for that and other forms of ID. It is clear that such forms of ID might not be covered by the documents currently listed. The power to amend a list of documents does not therefore appear to be sufficiently future proofed. It is therefore prudent to remove the list of ID documents from the bill and give ministers the power to provide the list of acceptable forms of ID in secondary legislation in advance of offence provisions coming into force. I urge the committee to support the amendments.

Sandesh Gulhane: Will the minister take an intervention?

Jenni Minto: I have just finished.

The Convener: You can take an intervention if you wish.

Jenni Minto: I will take the intervention.

Sandesh Gulhane: Thank you. I did not want to interrupt what you were saying, because it is vital that we can ensure that under-18s do not get into this. When we introduce a new form of ID, providers might, in good faith, be duped by false documentation. In considering the secondary legislation, will the minister set out help for providers with new forms of ID that they might not have seen before?

Jenni Minto: The member raises a reasonable point. I suggest that such secondary legislation will not happen in this session of Parliament and that it would be for the minister who is in this position after the election to make those decisions and recommendations.

The Convener: In winding up, I thank the minister for her support and for the support of her officials. I urge members to support amendments 1 to 4.

I press amendment 1.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Clare Haughey]—and agreed to.

Section 2, as amended, agreed to.

Section 3 agreed to.

Section 4—Meaning of "permitted premises"

The Convener: Amendment 22, in the name of the minister, was debated with amendment 9. I remind members that, if amendment 22 is agreed to, amendment 40 will be pre-empted.

Amendment 22 moved—[Jenni Minto].

Amendments 22A to 22D not moved.

Amendment 22 agreed to.

Amendment 23 moved—[Jenni Minto]—and agreed to.

Amendments 68 and 69 not moved.

Amendment 24 moved—[Jenni Minto]—and agreed to.

Amendments 41 and 71 not moved.

Amendment 25 moved—[Jenni Minto]—and agreed to.

Section 4, as amended, agreed to.

After section 4

Amendments 42, 43 and 73 not moved.

The Convener: Amendment 75, in the name of Fulton MacGregor, is grouped with amendments 79, 100, 106 and 118. I call Emma Harper to move the amendment in his name and speak to all the amendments in the group.

Emma Harper: Mr MacGregor sends his apologies—he has inadvertently been delayed. He intended to be here to speak to his amendment. I have his speaking notes; I will be concise.

Amendment 75 would place a duty on Healthcare Improvement Scotland to set standards for premises where non-surgical procedures are provided. The amendment would require those standards to be proportionate to the level of risk that is associated with the procedures that are being carried out. Further, it would clarify that premises that offer only non-surgical procedures should be required to meet those proportionate standards, rather than be subject to hospital-grade or overly burdensome requirements.

The amendment seeks to maintain strong patient safety protections while avoiding unnecessary regulatory barriers that could exclude safe and responsible providers, limit access to services or increase costs without delivering additional public benefit.

I move amendment 75.

Sandesh Gulhane: Amendment 79 seeks to ensure that those who make complaints after receiving non-surgical procedures benefit from a clear set of national guidelines being in place. I do not believe that such an approach would be too onerous, as it would be set out in secondary

legislation, and it would allow a very clear line when it came to making complaints.

I have heard it asked, "If we are talking about a single provider, how on earth can you create a complaint along those lines?" However, the situation is the same with single-handed GPs; there still has to be a complaints procedure in place. If someone is not satisfied with the response that they get from the provider in question, there should be clear guidance that sets out exactly how they can complain and that ensures that any such complaints are followed through in a robust way.

I turn to amendments 106 and 118. The committee said in its stage 1 report that it wanted the Scottish Government to ensure that

"all providers are similarly suitably trained and qualified to be able to undertake patient mental health screening and to ensure properly informed consent".

Amendment 106 seeks to deliver that by ensuring that comprehensive national guidance is in place to assist providers with mental health screening. We are not requiring providers to be fully trained in mental health issues, and they do not need to be psychiatrists, but they need to have some idea of how to do a quick screen. After all, body dysmorphia is estimated to affect one in 50 adults in the United Kingdom; given its impact on body image, there is naturally a high likelihood that those suffering from it might seek a non-surgical procedure, and having that kind of discussion with the appropriate patient or client would provide a safeguard if they were seeking a non-surgical procedure.

Amendment 21, in the name of the minister, rightly defines an injectable non-surgical procedure as something that is done for a cosmetic or "wellbeing purpose", so that providers are not able to enter this from the side, as it were, and I really support such an approach. Given the minister's recognition that people seek out procedures to improve their mental health, it is important that we put in place proper guidance in response to that. Although amendment 106 focuses on body dysmorphia, it would just be a starting point, and it would, I believe, allow ministers to create guidance covering any other mental health condition that they felt was appropriate.

Maurice Golden: Amendment 100 seeks to ensure that HIS publishes standards and guidance on non-surgical procedures and that providers of non-surgical procedures comply with any such standards and guidance. It is a relatively simple amendment that should be beneficial in providing safety standards and guidance for the sector.

Jenni Minto: I understand and support the intention behind the amendments in this group, which relate to the setting of standards and the establishment of clear guidance in the provision of a complaints process. They take a number of approaches to setting standards and have varying degrees of specificity.

I will start by confirming my approach to the amendments in this group that relate to guidance. I ask members not to press or move those amendments, for reasons that I will discuss shortly, but I am happy to engage in discussions in advance of stage 3 on a single amendment that could cover the topics that members consider important.

I note, for instance, Dr Gulhane's amendments 106 and 118 and his concerns about body dysmorphia and other mental health conditions, and his amendment 79, which concerns guidance on complaints processes. I would expect responsible practitioners in regulated settings to already be aware of such matters, and I certainly confirm that Healthcare Improvement Scotland already requires providers of independent healthcare services to have a complaints procedure in place to provide an avenue for individuals to make an independent complaint.

Alongside that, healthcare professionals are already subject to their professional regulator's complaints processes. The bill as introduced will deliver that intent, and it might not be necessary to reintroduce any further provision of that nature. However, I am open to the idea that difficult issues around mental health concerns, which Dr Gulhane mentioned, and how they affect those seeking procedures are matters on which even experienced practitioners and professionals may benefit from further guidance.

10:15

Fulton MacGregor's amendment 75 is similar to Maurice Golden's amendment 100. Amendment 100 would set out a general requirement for HIS to publish standards and guidance. Amendment 75 would require proportionate standards and guidance, and that

"Relevant permitted premises must meet only the standards set by HIS"

under the provision of the amendment. The amendments would effectively prevent some of the sensible guidance that HIS already has in place from applying and would require it to be duplicated in a new form. That is an overly complicated way of going about things. I do not see why, for instance, a complaint procedure that is suited to an independent travel clinic would not be suited to a cosmetic one.

I am pleased to support the principle of the need for guidance, but I propose to work with members ahead of stage 3 to introduce a single amendment

that addresses all concerns. I urge other members to support that approach, too.

The Convener: I call Emma Harper to wind up and press or withdraw amendment 75.

Emma Harper: I do not have anything to add. I seek to withdraw the amendment.

Amendment 75, by agreement, withdrawn.

Amendment 44 moved—[Maurice Golden].

The Convener: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 44 disagreed to.

The Convener: Amendment 76, in the name of Maurice Golden, is grouped with amendments 51, 105, 110, 117 and 119. I remind members that, under rule 9.12.6C of standing orders, the Presiding Officer has determined that the financial costs that are associated with amendment 105 would be significant. Therefore, amendment 105 may be debated, but, in the absence of a financial resolution, the question on it may not be put.

Maurice Golden: Amendment 76, as well as the other amendments in this group, seeks to ensure fairness in the regulation of the sector. In my opinion, the sector should have been regulated at least a decade ago, and perhaps before that. Had that happened, the market would not display the distinctions that we see today. Through no fault of their own, non-medical aesthetic practitioners now face a perilous future, and the amendment seeks to assist them in the transition to a newly regulated sector.

Unfortunately, neither the minister, committee members nor anyone else can go back in time and ensure that the regulations were brought in when they should have been. We are where we are now, and we must address the issue of those who now face being outwith the regulated sector unless they do a significant amount of additional training. Essentially, the amendment attempts to fix what Parliament did not do.

I move amendment 76.

Jeremy Balfour: Amendment 51 would require that the rates of any fees charged by Healthcare Improvement Scotland for registration are specified in regulations. Having those fee levels set out in secondary legislation would ensure that they are subject to parliamentary scrutiny.

The purpose of the amendment is to provide transparency and accountability in how fees are determined. Registration fees represent a direct financial obligation on practitioners and businesses. For many in the sector, particularly sole traders and small partnerships, even a moderate cost increase will have a meaningful impact on their business.

Without clarity on how fees will be set or what level they might reach, businesses would face uncertainty, which could affect financial planning, investment decisions and workforce stability. It is therefore appropriate that the Parliament has oversight of the level of fees that are associated with the regime that it is establishing.

Amendment 51 would not prevent fees from being charged, nor would it challenge the principle of cost recovery, where appropriate. Instead, it would ensure that fees are clearly defined, transparent and open to scrutiny. Setting them out in regulations would provide predictability for businesses and allow members to assess whether the charges are proportionate to the regulated services provided.

If my amendment is agreed to, fee levels will be publicly defined and subject to parliamentary consideration. That would provide clarity, support and confidence that charges are fair and justified. That already happens in other sectors.

If the amendment is not accepted, there will be less transparency about how fees are determined and there will be a reduced opportunity for consideration by the Parliament. Businesses could face uncertainty about future costs, and the Parliament would have a more limited role in assessing the financial impact of the regime.

Ultimately, amendment 51 seeks to ensure that the financial foundations of any new regulatory system are clear and accountable, and that it is safely implemented so that businesses, whether small or large, are not indirectly affected.

Sandesh Gulhane: The Presiding Officer has clearly stated that we cannot vote on my amendment 105 due to the financial constraints that it might cause. However, it is important to

debate it, and I would love to hear what the minister has to say about it.

The provisions of the amendment were not intended to be financially burdensome or to make available a huge amount of money, but rather to enable current providers to move into regulation with guidance. If the wording is wrong, because the amendment refers to "financial assistance", perhaps it would be better if I took that out and talked about the advice, support and written guidance that would be available. The idea was that the details would not be in the bill; they would be developed subsequent to the passing of the bill. That would give ministers flexibility to provide what they felt was appropriate.

However, it is important that existing providers get help, guidance and support to move to, for example, HIS standards and to deal with other important patient safety aspects. That is the point behind the amendment. I shall not move amendment 105, as instructed, but it is important to discuss it.

Carol Mochan (South Scotland) (Lab): Like others, Scottish Labour supports the Government in exploring how best to approach the regulation and licensing of non-surgical cosmetic procedures. In considering the bill, we have sought to balance the need for fair and appropriate regulation that prioritises public safety with not putting unnecessary requirements on the service, while ensuring that we get the right support for current practitioners.

The purpose behind my amendment 110 is to ensure that proper checks and balances are put in place. It would require the Scottish Government, within 12 months and then within two years of royal assent, to assess the support that has been provided to the industry. The amendment arose from concerns about ensuring that many skilled practitioners are not left behind. It would require the Government to assess the support that has been provided to independent and non-medical providers. That support includes training opportunities to upskill and the provision of guidance and qualification pathways. The amendment would also require the Government to report on whether any financial support has been offered to remote and rural businesses.

The Government has provided an assurance that proper support and guidance has been put in place, which is something that Labour supports, but my amendment would require the Government to report on that.

Jenni Minto: I am grateful to members for their contributions to the debate on this group, as well as for lodging the amendments. Although I urge members not to press or move the amendments in the group, I understand the issue that they seek to address and I have sympathy for the businesses that have developed and flourished in the sector in the absence of regulation and guidance. I appreciate that most of those businesses have tried their best to provide a safe and responsible service.

I trust that, to some degree, these amendments are probing amendments, and that members want me to put on the record the support that will be put in place for businesses when regulation is introduced. I will remind members of the options that are available to businesses and the consideration that I have given to minimising the impact on businesses while prioritising safety.

Not all aesthetics businesses perform procedures that will be regulated under the bill. Some will be affected primarily by the licensing scheme that will be introduced under the Civic Government (Scotland) Act 1982, which will be similar to licences for tattoo and cosmetic body piercing businesses. I am not aware of any concerns about the scheme being onerous.

By choosing to provide non-surgical procedures that are regulated under the licensing scheme rather than the bill, some businesses may adjust their business model so that they do not need to operate from a permitted premises. Other businesses will want to continue providing procedures such as Botox, and they will have a regulatory framework that sets out how they can do so. I have spoken to businesses that already successfully work—or have previously successfully worked—under the model that the bill sets out.

Businesses that will need to adjust to the new regulation will be able to rely on support from existing services such as Business Gateway that provide sectoral information and tailored business guidance. They can seek guidance from HIS, which provides information to prospective businesses about the implications and requirements of HIS registration.

Some businesses will have capital costs that might present a short-term hurdle. Those businesses will be able to access support from the range of existing grant schemes that are available to small businesses, which are signposted by find business support or local authorities and enterprise agencies.

Sandesh Gulhane: I have been approached by a provider that has applied to HIS to get registered but has not heard anything back for a long time. What happens in the event that HIS is given a huge amount of work to do and ends up with a backlog? It would not be fair on businesses to have to stop while HIS works through such a backlog.

Jenni Minto: I agree with Dr Gulhane's points, and I will come to some of them later.

I note the concern about the impact on businesses, and I want to be clear that I am happy to consider taking other action. In the debate on the final group of amendments, we will talk about the time before key provisions in the bill come into force.

I also want the Scottish Government to work with HIS and engage with businesses so that it can carefully consider HIS's requirements and determine whether any could be amended to ensure that they are suitable for the full range of businesses that HIS will regulate.

We must retain the requirement for a healthcare professional to be on site when procedures that will be regulated under the bill are being performed—I highlighted the importance of that in the debate on group 3. However, consideration is being given to removing the need for a healthcare professional to be present in a service when non-regulated procedures take place.

That said, there is no need to put in place a support fund such as the one that is envisaged by Sandesh Gulhane in amendment 105 and by the consequential changes that are proposed in amendments 117 and 119. As the convener and Dr Gulhane have noted, we will not be voting on amendment 105 today, given that there is no financial resolution and the Presiding Officer has determined that the cost of the amendment would exceed the threshold to require such a financial resolution.

There is also no need for a fund to be established to ensure that guidance is put in place. I refer members to the comments that I made in the previous group relating to standards, guidance and requirements for providers. I am willing to work with members on the inclusion of an overarching provision in the bill that requires the Scottish Government to produce guidance on a number of matters, given the number of amendments of that nature.

The final element of the proposed fund concerns direct financial support. Dr Gulhane is realistic about that element. Where businesses are concerned about on-going costs, for instance in relation to employment, it would not be reasonable or affordable to subsidise them using finite public moneys. Doing so would also be uncompetitive in a sector in which many businesses are already meeting the cost of HIS registration while receiving no such support.

10:30

Amendment 110 takes a different approach. I am grateful to Carol Mochan for lodging it. I note that it is one of a number of amendments concerning potential review provisions, including amendment 109, which is also in Ms Mochan's name. The majority of those amendments are to be considered in group 11, so I will say more on them at that point. However, I say to Ms Mochan now that I would be happy to work with her on amendment 110 and with other members on how a single review provision can also consider the support available to businesses to ensure that the issues that Ms Mochan raises can be addressed.

Amendments 51 and 76 focus less on support for businesses and more on the imposition of costs on them. I must admit that I do not see the need for amendment 51 in Mr Balfour's name. The Scottish ministers already have the power to set maximum fees for registration with HIS in regulations under section 10Z5 of the National Health Service (Scotland) Act 1978. Ministers are required to consult service providers before making regulations under the 1978 act, and HIS consults its registrants when evaluating those fees on an annual basis.

Jeremy Balfour: I am just looking to the future. What happens if a minister and the organisation say that they want to increase the fees by more than 100 per cent? What scrutiny would the Parliament have with regard to such an increase? My amendment would simply allow the Parliament to step in if an increase was excessive.

Jenni Minto: My understanding is—I will correct the record if this is incorrect—that the Parliament votes on the instrument that sets the maximum fees every few years, so there is a check. I will get back to Mr Balfour directly on that, and I suggest that he does not move amendment 51.

I also urge Mr Golden to consider the provision in the 1978 act concerning the setting of fees. It requires HIS to set its fees—subject to a statutory maximum that is set by ministers in regulations—with regard to its reasonable expenses in carrying out its functions. That appears to me to be a very reasonable basis for fees to be set. Any alternative might prevent HIS from covering its own costs and open the prospect of the public purse subsidising the sector in perpetuity.

The other elements of amendment 76 compare costs incurred by businesses that are associated with enforcement and the level of penalties. I would welcome further discussion with Mr Golden on the costs associated with enforcement if he is aware of a concern about HIS inspection or other enforcement activity being burdensome for its current registrants. I note Dr Gulhane's point regarding that, and I would be happy to discuss the situation that he mentioned with him.

Regarding the level of penalties, I note that decisions regarding prosecutions are a matter for

the Crown Office and Procurator Fiscal Service and that the appropriate level of fines to be applied following conviction will be a matter for the courts to determine according to the facts and circumstances of a particular case. I will say more about this under group 9, which relates to enforcement, but if a court considers it appropriate to set a stiff penalty for someone who has knowingly provided a high-risk procedure to a child, I do not want anything in the bill to prevent that.

For those reasons, I ask members not to press the amendments, as I am very happy to work with them to address some of the underlying concerns. In the meantime, I hope that my comments have been helpful and reassuring.

The Convener: I call Maurice Golden to wind up and to press or withdraw amendment 76.

Maurice Golden: I have nothing further to add except to say that I wish to withdraw amendment 76.

Amendment 76, by agreement, withdrawn.

The Convener: Amendment 77, in the name of Sandesh Gulhane, is grouped with amendments 78, 80, 81, 83, 46, 47, 84, 87 to 89, 91, 92, 95, 97 to 99, 103, 58, 115 and 120.

Sandesh Gulhane: Amendment 77 would require providers to have insurance and indemnity. Responsible providers already do so. It is perfectly reasonable to require providers to have insurance for their premises and indemnity for themselves.

With amendment 78, I am seeking to ensure that there is an informed consent process for prospective patients. Informed consent is not as straightforward as saying to someone, "Oh—I see you've come here for Botox. Let's crack on." It involves discussing the potential risks and side-effects. There is even a place for a cooling-off period to ensure that the person who is seeking the procedure receives appropriate levels of information.

Amendments 81 and 103 deal with a really important issue. They were recommended by the Scottish Medical Aesthetics Safety Group. I believe that they would close a loophole that currently exists in the bill. There are only nine botulinum toxin type A products authorised for use in the UK by the MHRA. The patient safety instructions that accompany those products clearly state that they can be administered only by healthcare professionals, not by members of the public.

I am concerned that, as it is currently drafted, the bill will not prevent members of the public from administering botulinum type A, which means that it ignores the manufacturer's safety instructions and undermines the MHRA's rigorous risk assessment and licensing requirements. My amendments 81 and 103 seek to close that loophole in the interests of public safety by ensuring that only regulated healthcare professionals can administer botulinum type A.

Amendments 92, 95 and 87 seek to define those people who are qualified to conduct such procedures unsupervised. Amendment 95 seeks to define a licensed medical doctor as

"a person registered with the General Medical Council".

Amendment 87 is a consequential amendment that would remove the need for ministers to make regulations about supervision, as that issue is covered by amendment 92.

I apologise—I have a lot of amendments. With amendment 95, I am seeking to provide a definition that ensures that an advanced medical practitioner is able to act independently. It is important that we do not have a loophole whereby someone can train to be a dental nurse, for example, which does not require a long period of training, simply to get into the field of aesthetics. People who have experience and who are able to prescribe should be able to act independently when it comes to the clinic that they run.

I also want to look at the meaning of "supervision". It is important that that word is defined. Ideally, I would like a definition to be provided in the bill, because I think that it is vital that it is clear to everyone what is meant by "supervision", to avoid any legal challenges or situations in which people say that they are supervising when they are online in the Bahamas, rather than actually there in the clinic.

Amendments 99 and 120 are probing amendments. I am looking for guidance to be provided on higher-risk clients. I discussed the issue with the minister; it was raised by Cleft Lip and Palate Action. Essentially, I want to ensure that patients who are at a higher risk are looked after by practitioners who have the appropriate skills to deal with high-risk patients. However, I will not move those amendments.

I move amendment 77.

Fulton MacGregor (Coatbridge and Chryston) (SNP): First, I thank Emma Harper for speaking to amendment 75 earlier. Trains going through Bathgate were all cancelled today, which caused all manner of difficulties, but Emma Harper spoke to my amendment much more articulately and succinctly than I would have done.

All of my amendments today come from the same place, after a number of constituents spoke to me about their concerns relating to the bill. Like other amendments that we have heard debated

this morning, they try to bring to the fore the importance of recognising the people whose lives and livelihoods might be directly shaped by the decisions that we take on the bill. The non-surgical procedures sector in Scotland is largely made up of self-employed practitioners, mostly women, many of whom are young working-class women who are building and sustaining small businesses in their local communities. They have invested in training, premises and insurance and they take seriously their responsibilities to their clients. I know that it is not the intention of the Government or the bill to harm that group of people.

In my engagement with constituents in the sector, their message has been consistent. Practitioners want clear standards, recognised qualifications and an appropriate regulatory framework. They do not oppose the bill and they understand the importance of patient safety and of maintaining public confidence. At the same time, they are seeking a system that reflects the level of risk involved in different procedures and the scale of the businesses that are delivering them—a fair and just system that does not unduly penalise them.

My amendments across several groups are intended to support that balance. They aim to ensure that standards for premises, training and enforcement are aligned with risk, are workable for small providers and provide clarity for those seeking to operate responsibly. In doing so, they recognise the importance both of protecting patients and of sustaining a sector that provides employment, opportunity and valued services across Scotland.

I would like to thank several constituents who have taken the time to educate me on this issue and let me know their concerns. I will not name them all, but, in particular, I am very grateful to Sabrina Kilta, Joanne Haggerty and Paula Adams.

I turn to amendments 80 and 115 in my name. Amendment 80 would introduce a statutory duty on Scottish ministers to establish—through regulations—minimum training and qualification requirements for those providing non-surgical procedures. It would allow different standards to be set for different procedures and require that those are proportionate to the risks involved, ensuring that regulation targets genuine patient safety concerns arising from inadequate training rather than professional background. By mandating regulated, treatment-specific qualifications for all practitioners, including healthcare professionals, the amendment would promote consistent safety standards, professional parity and alignment with emerging UK best practice, strengthening public confidence and patient protection across the sector.

Amendment 115 is a consequential amendment to set the procedure for the regulations. Above all, the amendments reflect what responsible practitioners have told us they want: clarity about what is required, recognition of their skills and a fair system that applies equally to everyone delivering these treatments. That would give those who are working hard to meet high standards the confidence that their professionalism will be recognised, and the public can have assurance in the qualifications behind the services that they receive.

I have had discussions with the minister's office, and my intention at this stage is for these to be probing amendments. We will hear what the minister says, but the aim is to do some more work on them ahead of stage 3.

Gillian Mackay (Central Scotland) (Green): My amendments in the group have been developed with the Cleft Lip and Palate Action group and they probably speak to some of the issues that Sandesh Gulhane has already raised.

My amendment 83 would place a duty on the Scottish ministers, when making regulations under section 5, to have regard to people whose risk of harm from non-surgical procedures is increased because of congenital facial difference, prior facial surgery or altered anatomy and scarring. Although any initial set of regulations may well include appropriate protections for these groups without the need for primary legislation, regulation in this area will inevitably evolve as new procedures, products and techniques emerge. There is a real risk that, over time, people with increased vulnerability could fall by the wayside. By embedding this consideration in the bill, amendment 83 would provide a lasting safeguard and ensure that these higher-risk individuals remain visible and protected as the regulatory framework adapts.

My amendment 88 would enable regulations to impose different or additional requirements where individual client risk factors are present, including risks linked to medical history or anatomical considerations. Risk is not uniform across the population. For example, a person who is born with a cleft or someone who has undergone multiple facial surgeries might have altered anatomy or scar tissue that significantly increases the likelihood of complications from non-surgical procedures. My amendment would ensure that the regulatory framework could respond to those realities, allowing proportionate additional safeguards where higher risk was identified, rather than applying the same requirements to every client, regardless of clinical context.

10:45

My amendment 89 would require providers to carry out and document a pre-procedure assessment of relevant medical history and to follow enhanced informed consent procedures where factors are identified that might increase the risk of harm. At present, there is no consistent requirement to assess medical history or anatomical risk before non-surgical procedures are carried out. The amendment would embed basic patient safety principles into the regulatory framework, ensuring that risks are identified in advance and clearly explained to clients. It would not ban procedures, but would help to ensure that decisions that are made by the practitioner and the client are made with a proper understanding of potential harms, particularly for people with more complex clinical backgrounds.

My amendment 98 would require the Scottish ministers to publish guidance on how the act applies to individuals whose risk of harm might be increased due to congenital facial difference, prior facial surgery or altered anatomy. It would also allow the guidance to cover identification of higher-risk clients, additional safeguards and appropriate referral pathways. Clear guidance benefits practitioners and clients. For practitioners, it provides clarity on how to recognise higher-risk situations when additional precautions are needed and when referral to clinical services is appropriate. For clients and patients, it improves transparency and helps them understand why certain procedures might require extra safeguards or specialist input. Although early guidance might include those protections without the need for primary legislation, guidance will change over time. By requiring guidance in statute, the amendment would help to ensure that higher-risk groups are not overlooked as practice, technology and regulatory priorities evolve.

Maurice Golden: I will speak to my amendments 46, 47, 91 and 58. The first point is that data on safety is lacking in the sector. That is one of the reasons why it needs to be regulated. However, even in regulated settings, there is difficulty in accessing data on exactly when things unfortunately go wrong and at what point issues occur, both in situ and beyond. Nonetheless, the amendments in this group are about ensuring that there is a proportionate risk-based approach in the absence of that data. Ultimately, my amendments in the group seek to provide a proportionate approach to the new regulated practice in this space. I foresee that, depending on how the amendments in the group are voted on, there might be a requirement for some condensing and tweaking at stage 3.

Stuart McMillan: My amendment 84 is based on a governance and prescribing assurance document by HIS, relating to medical aesthetics, and the 2011 regulations that I referenced earlier. Section 6 of the former states that prescribers

"must only prescribe within the competence following an appropriate consultation that establishes medical history',

and then it goes on a bit further than that.

The 2011 regulations are clear that a suitably qualified healthcare professional must be working within the independent healthcare service while service users are present. In speaking about other amendments, Dr Gulhane referenced the nine botulinum toxin type A products that are authorised for use in the UK under the MHRA guidelines.

Fundamentally, amendment 84 is about safety. As I stated in my contribution earlier, this is about safety. The amendment tries to establish a base or minimum for newly regulated practitioners. However, I am conscious that some of the earlier amendments were not moved, and I predict that I probably will not move amendment 84 either.

Jenni Minto: This is a complex and important group of amendments, so I will need a bit of time to address them all.

After consultation, we announced our intention to create three groups of procedures. Group 1 covers procedures that are undertaken under a local authority licence, and their regulation will be achieved when the SSI that was made on 12 February this year takes effect. Group 2 covers procedures that could be undertaken by non-healthcare professionals working in a clinical setting with supervision by a healthcare professional. Group 3 covers procedures that could be undertaken only by a healthcare professional. The bill covers procedures in groups 2 and 3, but it does not differentiate between them. It also does not specify who may undertake the procedures or what form supervision may take.

The bill provides key safety protections related to age and to ensuring that procedures are undertaken only in a regulated setting where we expect the right healthcare professionals to be available. Once issues relating to the United Kingdom Internal Market Act 2020 are worked through, we will put in place further regulations that will cover training requirements for practitioners and how supervision should operate and will restrict the riskiest procedures, so that they can be undertaken only by a healthcare professional.

I turn to the amendments. Dr Gulhane's amendments 81 and 103 would put in place specific provisions for Botox. In many ways, the approach resembles the approach that we intend to take for group 3, with such procedures being able to be undertaken only by a healthcare professional. This matches the approach in a range of European countries and there was strong

support for such provision in the consultation responses. However, I am also mindful that strong representations have been made in relation to non-healthcare practitioners being able to carry out the procedure safely. Given that Botox is a prescription-only medicine, it is necessary for a healthcare professional to make the initial prescription and to support consideration of whether Botox is right for the client, as well as to be available to manage complications. Complications can arise whoever the practitioner might be.

Dr Gulhane's amendments 81 and 103 would restrict the practice of non-healthcare professionals in an unnecessary way. In addition, by creating an offence in relation to the provision of Botox, a prescription-only medicine, the amendments would make provision on a subject matter that falls under the Medicines Act 1968. That is a reserved matter under schedule 5 to the Scotland Act 1998. Therefore, amendments 81 and 103 appear to be outwith our legislative competence, so I urge Dr Gulhane not to move them. However, the points that Dr Gulhane has raised are important, and we will highlight them in our on-going discussions with the UK Government.

Amendments 58, 84, 87, 92, 95 and 97 cover supervision, which is an issue that the Scottish Government intends to resolve through future regulations. The principles of supervision might change over time, and they will be closely impacted by, for example, the training standards that are set.

The broad principles that are set out in subsection (1) of Mr Golden's amendment 58 are likely to be features of future regulations. The amendment might also overlap with or duplicate existing requirements under professional guidance or elsewhere. I appreciate that Mr Golden's amendments are largely focused on making practice easier for non-healthcare practitioners, but I note that he is proposing a model of remote supervision, which I do not think would be appropriate. That would weaken safety protections and would not provide the flexibility that practitioners are looking for. The cost of a professional observing a procedure using technology would need to be factored in. In-person partnership is a more effective approach to safety and allows professionals to work in parallel in a setting. I am very concerned that amendment 58 would undermine the fundamental safety intentions of the bill, which I covered in the debate on group 3. Therefore, I cannot support it and urge Mr Golden not to move it. If he does, I ask members not to support it.

Dr Gulhane's amendment 97 asks ministers to ensure that a definition of "supervision" is in place before regulations are made under section 5. I am happy to confirm that specifying the basis on which procedures can be undertaken, as part of the section 5 regulations to ensure that procedures are carried out safely, is a priority, alongside providing training standards and restricting the highest-risk procedures to healthcare professionals. I cannot say which matters will be resolved soonest—that is a matter for ministers after the election. If regulations on other matters were ready first, I certainly would not want them to be delayed. Therefore, I cannot support amendment 97.

Dr Gulhane's amendments 87, 92 and 95 relate to supervision because they replace ministers' ability to make regulations to specify who may provide, or supervise the provision of, a non-surgical procedure, with a list of individuals who may perform procedures unsupervised. That list includes an advanced medical practitioner—a health and care practitioner with a qualification encompassing clinical practice, leadership and management, and education and research. It appears that amendment 92 may be outwith legislative competence, as a result of the medicines reservation in the Scotland Act 1998.

Mr McMillan's amendment 84 also addresses supervision, suggesting minimum staffing ratios. There are concerns that this amendment may also be outwith legislative competence because the regulation of the health professions is reserved under schedule 5 to the 1998 act and because of the effect of the amendment in relation to the medicines reservation in the 1998 act.

We do not yet have a definition of supervision, at least in part because we are still working through the implications of the United Kingdom Internal Market Act 2020, which does not allow us to set training and supervision standards for Scotland that would operate in the manner in which the Scottish ministers would like them to. Now is not the time to specify who can or cannot perform procedures without supervision. This is a matter for future regulation, as soon as it is practicable, so I cannot support amendments 84, 87, 92 and 95.

Amendments 77 and 78, in the name of Dr Gulhane, seek to impose direct requirements on providers in relation to insurance and indemnity, as well as aftercare information. These are entirely reasonable requirements, but I can reassure Dr Gulhane that insurance and indemnity requirements already form part of HIS's regulation of the settings that are registered with it. The appropriate place for these matters is in HIS guidance, or in the requirements placed on HIS-registered settings through regulations under the National Health Service (Scotland) Act 1978. Similarly, aftercare information should be a basic

part of practice in this sector and, again, guidance would be an appropriate place to address it. Therefore, I cannot support amendments 77 and 78.

Amendments 80 and 115, in the name of Fulton MacGregor, seek to impose direct requirements on providers in relation to training requirements. The bill already makes provision for the Scottish ministers to make regulations setting out training or qualification standards and, once the issues surrounding the internal market act are resolved, it is the intention to set training and qualification standards for providers of non-surgical procedures. Fulton MacGregor's amendment 96, in the next group, which I will be urging the committee to support, also addresses this issue. I hope that that addresses the member's concern and I note his comments regarding his amendments.

Section 5 of the bill will confer on ministers a power to regulate to make further provision about non-surgical procedures. Altogether, 23 amendments have been lodged that change or add to section 5 and a further five amendments would make additions immediately after section 5. Not all of those amendments are to be debated in this group, but I hope that members will appreciate that it would not be possible to accept such a high number of overlapping and sometimes conflicting amendments.

In this group, amendments 83, 46, 47, 91, 84, 87, 92 and 95 all in some way restrict or direct the use of section 5 powers by ministers, seeking that the Scottish ministers must consider or make provision for a whole range of issues, such as provision about consultation and consent, record keeping, the traceability of injectables and aftercare.

Maurice Golden's amendment 91 would prevent any restriction to providing non-surgical procedures being made based on the professional status of an individual. That would prevent ministers from restricting who can provide even the highest-risk body augmentation procedures. I cannot support the amendment. There are times when it will be right to restrict the carrying out of certain procedures based on the professional status of the provider. I suspect that the member would agree that such a blanket limitation was not his intention.

Maurice Golden's amendment 46 requires that any regulations made under section 5 must make provision for the classification of non-surgical procedures into categories of risk and potential harm, having regard to available evidence on harms and complications. It would be a significant undertaking to categorise procedures in more detail than we have done, each time that regulations under section 5 are made. It would also limit the Scottish Government's ability to react quickly to novel procedures or to changes in how existing procedures are delivered. In my amendment 35, the requirement to consult on regulations, which will be subject to the affirmative procedure, will take account of the risks and potential harms of procedures in relation to any changes that the regulations make. Therefore, I cannot support amendment 46.

11:00

Maurice Golden's amendment 47 provides that regulations must make certain requirements of providers, and although the matters discussed are appropriate, I again want to maintain flexibility for such matters to be addressed in guidance or regulations as appropriate, and to avoid anything that would duplicate existing requirements elsewhere. Therefore, I cannot support amendment 47.

I will now consider amendments 83, 88 and 89, in the name of Gillian Mackay, which seek to address the heightened risk of non-surgical procedures to clients with pre-existing conditions such as prior surgeries or altered anatomy. Amendment 83 sets out that the Scottish ministers "must have regard to" the need to protect individuals at greater risk of harm when making regulations under section 5, whereas amendments 88 and 89 provide that ministers "may" exercise their powers to make provision for different or additional requirements and ensure that providers carry out documented pre-procedure assessments and informed consent procedures.

The requirement for the procedures that the bill covers to take place in settings where a healthcare professional is available takes account of scenarios such as those set out by Gillian Mackay in amendment 83, in which clinical input is required to determine whether a procedure is suitable for a client. If any further provision is required in this respect, it may be provided in guidance. However, I do not think that any duty is required for the Scottish ministers to ensure that these matters are considered; instead, such a duty would encumber the exercise of the power.

Amendments 88 and 89 are also not strictly necessary, but I would understand if the member wished to move and press them as a further signal of the types of matter that we may need to consider in future. In the spirit of compromise, I would be happy to support these amendments. That is because, unlike amendment 83, amendments 88 and 89 would not encumber the wider use of the power. I ask the member not to move amendment 83.

I will turn to the final amendments in this group: amendment 98 by Gillian Mackay and related amendments 99 and 120 by Dr Gulhane. The amendments offer two very similar approaches to ensuring additional protections to high-risk clients and require guidance to be produced. I have already discussed guidance. I do not think that it is helpful for the bill to contain multiple guidance provisions, so I refer members to my comments during the debate on group 5 and ask them to work with me, and each other, on a stage 3 approach to the issue.

This has been a substantial group, and it demonstrates the level of care that members have put into considering safety and risk issues. There is time before stage 3, if members are willing to work with me, to agree approaches to concerns that can be endorsed on a consensual basis, whether or not that requires anything to be included in the bill.

For the time being, I repeat my support for amendments 88 and 89 and urge other members not to move their amendments. If they do, I would ask that members do not support them.

The Convener: I call Sandesh Gulhane to wind up and to press or withdraw amendment 77.

Sandesh Gulhane: There is a lot in this group, as the minister said. I am absolutely sure that there are people providing non-surgical procedures who have neither insurance nor indemnity for their premises, which concerns me. The point of the bill is to make everything safer and to tighten things up. It will be very important to have further discussions on the issue as it is vital that providers have such arrangements in place—it is unacceptable for providers not to be insured.

I agree with the minister on the high-risk groups and I will not move amendments 81 and 103. Further discussions are needed, but I will not press amendment 77.

Amendment 77, by agreement, withdrawn.

The Convener: Amendment 78, in the name of Sandesh Gulhane, has already been debated with amendment 77. Do you wish to move or not move the amendment?

Sandesh Gulhane: I will not move the amendment, while noting the importance of having further discussions on the issue with the minister.

Amendment 78 not moved.

Amendment 79 moved—[Sandesh Gulhane].

The Convener: The question is, that amendment 79, be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 5, Against 5, Abstentions 0.

The result is a tie. I must exercise a casting vote, which I cast against the amendment.

Amendment 79 disagreed to.

Amendment 80 not moved.

The Convener: Amendment 81, in the name of Sandesh Gulhane, has already been debated with amendment 77. Do you wish to move or not move the amendment?

Sandesh Gulhane: Given what was said, this is an issue on which further discussions are required, so I will not move the amendment.

Amendment 81 not moved.

Section 5—Power to make further provision about non-surgical procedures

Amendment 83 not moved.

The Convener: I will suspend the meeting for a break. We will be back in about 10 minutes.

11:07

Meeting suspended.

11:17

On resuming—

The Convener: Amendment 45, in the name of Maurice Golden, is grouped with amendments 48 to 50, 52, 90, 53, 54, 93, 94, 96, 55 and 35.

Maurice Golden: My amendments 45, 48, 49, 52, 90, 53, 54 and 55 would make further provisions in relation to ensuring that regulations are fit for purpose. My amendments in group 6 were largely focused on costs and financial provisions; my amendments in this group relate to a range of facets including training, timescales for compliance and phased implementation, as well as the assessment of any regulations as defined by the Scottish Government. The amendments would help to provide a pathway to future

regulations and ensure that those regulations were fit for purpose.

I move amendment 45.

Jeremy Balfour: Amendment 50 would require Scottish ministers to establish an accreditation scheme to enable trained non-medical practitioners to supervise non-surgical procedures. It would create a clear and regulated pathway for suitably qualified and experienced practitioners who are not medically qualified to undertake supervisory roles within the new framework.

The amendment does not seek to weaken safety standards or remove medical involvement. Instead, it would ensure that supervision is based on proven competence and relevant experience. Under the amendment, accreditation would be delivered through a recognised professional body providing structured assessment, external verification and on-going professional development.

The non-surgical aesthetics sector includes many highly skilled practitioners who have completed extensive specialised training in aesthetic techniques, compliance and management. Many have years of experience and advanced qualifications that are directly related to the procedures that are being regulated. However, they may not hold a traditional medical qualification.

As it is currently drafted, the bill risks limiting supervisory roles to medically qualified individuals alone. That approach may not always reflect where expertise lies in the field. It could exclude experienced practitioners whose entire professional focus has been within aesthetics and who possess detailed and practical knowledge of the procedures covered by the bill. Amendment 50 has been lodged to ensure that eligibility to supervise is based on training, competence and recognised standards, rather than on a medical qualification title alone. Regulation should reflect the structure and realities of the sector that it governs. In this context, a strictly qualification-based rule may not always be the most accurate measure of expertise.

There are also workforce considerations. Many businesses in the sector, particularly smaller ones, operate with lean staffing arrangements. If supervision is limited exclusively to medically qualified professionals, there may be insufficient capacity in some areas—especially in rural areas. That could increase costs and create practical difficulties in securing appropriate supervisory arrangements. By contrast, an accredited pathway for non-medical supervisors would widen the pool of eligible professionals while maintaining safeguards. It would preserve valuable expertise, support workforce stability and reduce the increased costs that would arise from having a limited supervisory cohort.

The amendment would create a clear and credible route to supervision. Practitioners, regulators and the public would have clarity about who is qualified to supervise and on what basis. Accreditation through recognised professional bodies would ensure accountability and on-going standards. Patient safety would remain central, supported by defined criteria and regulatory oversight.

Amendment 50 would ensure that the supervisory model is robust, proportionate and aligned with the structure of the sector. It would maintain safety standards while recognising competence and supporting workforce sustainability.

Gillian Mackay: Amendment 93 would require the Scottish ministers to consult patient representatives, people with relevant clinical expertise and appropriate regulatory or enforcement bodies before making regulations under section 5. Non-surgical procedures raise issues that span public health, clinical safety, consumer protection and enforcement. Consultation would help to ensure that regulations are informed by lived experience of clinical insight and that it is practical to implement and enforce them. For example, patient groups can highlight where risks are commonly misunderstood, clinicians can advise on anatomical and surgical considerations and regulators and practitioners can ensure that requirements are workable in practice. That would lead to better, more effective regulation and would reduce the risk of unintended consequences.

Sandesh Gulhane: I have listened to what has been said so far. My amendment 94 seeks to give clarity on what supervision is and what it is not. The point of the amendment is to ensure that there is clarity and I hope that it would ensure that the intentions of Jeremy Balfour, Gillian Mackay and others are included in the bill in a way that makes it clear and obvious to everyone what they mean.

Fulton MacGregor: Amendment 96 seeks to place a statutory duty on Scottish ministers to lay draft regulations establishing minimum training and qualification standards for those providing non-surgical procedures within three years of the offence of operating outside permitted premises coming into force. Where ministers consider that impractical, they must report to Parliament so as to explain their reasons. The amendment responds directly to stakeholder and committee concerns about training standards, while recognising the constraints imposed by the United

Kingdom Internal Market Act 2020 and the need for co-operation with the UK Government.

The three-year timetable would provide a realistic and proportionate pathway for introducing standards, allowing time for regulatory development, cross-Government engagement and for practitioners to adapt. Importantly, the approach would provide a clear and transparent pathway forward: practitioners would know what progress was expected within a defined time frame, and Parliament would be kept informed of their challenges along the way. For those running small businesses, it would certainly allow them to plan, to invest in training with confidence and to prepare for the change in a measured and responsible way.

I put on record my thanks to the minister and her team for her comments on the previous group and for working with me on this amendment.

The Convener: I call the minister to speak to amendment 35 and other amendments in the group.

Jenni Minto: This group of amendments relates largely to section 5, on the powers available to ministers to make further provision on non-surgical procedures.

I explained in my comments on previous groups why some matters needed to be dealt with under delegated powers. Our use of delegated powers was, of course, considered by the Delegated Powers and Law Reform Committee, and I was grateful to Stuart McMillan, who joins us today, for chairing that consideration. That committee recognised that certain matters were appropriate for regulations, but it also said that some additional safeguards were required in the exercise of that power.

As such, I turn to amendment 35, in my name, which requires Scottish ministers to consult in relation to all the affirmative regulation-making powers in the bill. I hope that all members will support that and agree that it is a proportionate approach to the issue identified by the DPLR Committee.

Amendments 54, 93 and 94 also seek to make consultation requirements, all of which are specific to the power in section 5. Amendments 93 and 94, lodged by Gillian Mackay and Sandesh Gulhane respectively, would require patient groups or those representing clients, clinical experts, regulators and enforcement bodies to be consulted. Dr Gulhane would add

"representatives of the beauty and aesthetics industry"

to the list and make other provision, which I will turn to shortly. Finally, amendment 54, in Maurice Golden's name, also sets out consultation requirements, in this case with HIS, local authorities, and representatives of the industry and training institutions.

In respect of all those consultation requirements, I ask members to consider that the power in section 5 is capable of making very different sorts of provision. In fact, it is capable of making substantial provision, in which case consultation would be not only expected—and rightly so—but required to fulfil the range of duties on Scottish ministers in relation to impact assessment.

Amendment 35 strengthens that requirement. In such circumstances, some or all of the groups indicated might well be included in the list of consultees, but the power might also make quite small or technical changes, in which case targeted consultation would be more appropriate. Indeed, even more substantial matters might be of interest only to a subset of the groups that members have named. Again, it would be a better use of time if the Scottish Government were able to consult bodies that have an interest in the matter at hand. For that reason, I urge members not to press or move their amendments and to support the amendment in my name instead.

I note Maurice Golden's amendment 53, which echoes some of the committee's concerns and is unlikely to make the exercise of the regulation-making power in section 5(1) cumbersome. I do not consider the amendment to be necessary, as any Government proposing regulations would consider their enforceability, and I also expect the committee that scrutinises regulations to seek assurance in that respect. However, I am happy to discuss the issue further with Maurice Golden before stage 3.

On the other hand, I urge Mr Golden not to move amendment 55, which makes similar provision but also contains material that overlaps with a range of existing duties, including under the Equality Act 2010, and which is likely to make the regulation-making power more cumbersome and less capable of being used in a reactive way.

The next amendments that I will consider seek to impose certain requirements on ministers in exercising those delegated powers or restrain the way in which they may be used. In that category, I include amendments 48, 49, 52 and 90. Those amendments include different approaches to requiring transitional protections and ensuring that there are pathways for non-healthcare professional providers. The effect of amendment 52 also means that no provision can be made about training or qualification requirements for persons providing non-surgical procedures that does not also provide alternative routes to demonstrate competence, and provisions around

continuing professional development, record keeping, audit, incident reporting and complications management. Those are not necessarily unreasonable matters to be considered, but putting those requirements against the whole exercise of the power would be cumbersome and often disproportionate to enact. They would remove the discretion to deal with issues in the most appropriate way, whether in regulations under this power, using other regulations, or in guidance.

11:30

Amendment 45 is relatively technical, as it seeks to amend section 5(2)(a) of the bill to prevent regulations made under section 5(1) from modifying sections 2, 3, 4 of and schedule 1 to the bill once it becomes an act. The provisions in section 5(2)(a) are not unusual and are required to provide flexibility in how new provisions are written into legislation and be made as readable as possible. For instance, amendments making specific requirements in relation to the settings for the provision of a particular procedure may do so in stand-alone regulations, which would then need to be read alongside the bill provisions, or it may make sense to make modifications to section 4 of the bill to allow such matters to be included all in one place. For those reasons, the existing power in section 5(2)(a) is considered necessary.

Amendment 50, in Jeremy Balfour's name, relates to creating a new regulatory scheme to facilitate certain categories of non-healthcare professionals to supervise procedures. That would be contrary to the strongly expressed views of consultees last year, who wish for supervision to be restricted to certain healthcare professionals. It would also conflict with the reasoning that I outlined in relation to group 3 around assurance of patient safety and dealing with complications. As such, I urge the member not to move amendment 50.

I return to amendment 94, in Sandesh Gulhane's name. Like his amendment 97 in the previous group, amendment 94 would require certain material to be published before regulations can be made. In this case, the requirement is to publish training standards. I assure members that training standards are a priority, and it is a matter of great frustration to me personally that more progress has not been made on that issue. I am, however, hopeful that members will shortly approve my amendments on an individual assessment process that is a prerequisite to us resolving those issues.

As I have said elsewhere, it is still going to be necessary for the Scottish Government to work with the UK Government on those matters. It is also likely to benefit practitioners if, where possible, requirements in Scotland and England are aligned. That means that the timing of any standard of training is not entirely in the Scottish Government's gift. On that basis, the requirement that Dr Gulhane has suggested in amendment 94 could prevent other matters being dealt with in a timely manner. On that basis, I urge Dr Gulhane again not to move the amendment.

Sandesh Gulhane: My concern, minister, is that amendment 35, in your name, potentially allows future ministers not to consult anyone, as required, before making changes. Although some minor technical changes would probably not need a consultation, the concern is that consultation might be needed for any bigger change. The most important thing is that there is further discussion, but can any reassurances be given on that topic?

Jenni Minto: We have to ensure that we get the right training and standards in place. I believe that amendment 35 does that. I am happy to continue that discussion, but I suggest that members vote for amendment 35 so that we have that as the basis to continue discussions.

The last amendment in this group that I wish to consider also relates to training standards. I am grateful to Fulton MacGregor for working with the Scottish Government on amendment 96, which reflects the strength of concern around training issues. The amendment would ensure that ministers have to address that concern, while acknowledging our limited influence over timing. I hope that members who have lodged amendments on training in general will join me in supporting the amendment.

Bringing my comments on the group to a close, I urge members to support amendment 35 in my name. I apologise, because I said "training" instead of "consultation" when I responded to Dr Gulhane. My comments about Dr Gulhane's point on consultations still stand.

Amendment 35 would deliver a proportionate consultation requirement in support of amendment 96, in Fulton MacGregor's name, which recognises the importance of training standards being put in place. I urge members not to move the remaining amendments in the group.

The Convener: I call Maurice Golden to wind up and to press or withdraw amendment 45.

Maurice Golden: I have nothing further to add. I wish to withdraw amendment 45.

Amendment 45, by agreement, withdrawn.

Amendment 46 not moved.

Amendment 47 moved—[Maurice Golden].

The Convener: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Mackay, Gillian (Central Scotland) (Green)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 47 disagreed to.

Amendment 48 moved—[Maurice Golden].

The Convener: The question is, that amendment 48 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 48 disagreed to.

Amendments 49 and 84 not moved.

The Convener: I call amendment 87, in the name of Sandesh Gulhane.

Sandesh Gulhane: Amendment 87 is consequential to amendment 92. I do not intend to move amendment 92, so I will not move amendment 87.

Amendment 87 not moved.

Amendment 50 moved—[Jeremy Balfour].

The Convener: The question is, that amendment 50 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Gulhane, Sandesh (Glasgow) (Con)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 0, Against 10, Abstentions 0.

Amendment 50 disagreed to.

Amendment 51 not moved.

Amendment 88 moved—[Gillian Mackay]—and agreed to.

Amendment 89 moved—[Gillian Mackay].

The Convener: The question is, that amendment 89 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 8, Against 2, Abstentions 0.

Amendment 89 agreed to.

Amendments 52, 90 and 91 not moved.

The Convener: I call Sandesh Gulhane to move or not move amendment 92.

Sandesh Gulhane: Given what the minister said, I feel that we need to have a further discussion about the issue but, for the time being, I will not move the amendment.

Amendment 92 not moved.

The Convener: We come to the group on enforcement. Amendment 26, in the name of Gillian Mackay, is grouped with amendments 56, 102, 57, 27 and 104.

Gillian Mackay: I thank the minister for her support and engagement on the amendments.

Amendments 26 and 27 in my name would increase the penalty that could be imposed on a person who is found guilty of an offence under the bill. Section 5(4) of the bill sets out that the maximum penalty that may be provided for in regulations under section 5(1) for a person who commits an offence created by regulations made under that section is, on summary conviction, a fine not exceeding level 5 on the standard scale.

Amendment 26 would amend section 5 and allow for a higher level of penalty by increasing the maximum level of fine for offences that may be provided for under regulations. Section 12 of the bill sets out that a person who commits an offence under section 2, 3 or 11 is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale, which is currently a maximum of £5,000.

Amendment 27 would amend section 12 and allow for a higher level of penalty by increasing the maximum level of fine for the offences in the bill in sections 2, 3 and 11. Each of those offences would now be triable either on summary procedure or on indictment. The amendments would increase the maximum allowable fine for offences to £20,000 on summary conviction and the fine allowable on conviction on indictment to an unlimited fine.

Sandesh Gulhane: I wonder whether you would be open to having a sliding scale, so that everyone could make a mistake on their first fine, but if there is repetitive behaviour and people treat it as a cost of doing business, we would certainly want maximum fines to be introduced.

Gillian Mackay: Dr Gulhane will appreciate that any fine in any case would be for the judge who is in charge at that point. They might decide that a lower fine for a first offence may be applicable, so it probably should not be in the bill with us deciding that.

I move amendment 26.

Maurice Golden: Amendment 56 in my name seeks to ensure that HIS inspection and enforcement of non-surgical procedures is proportionate, transparent, fair and focused on public safety. Amendment 57 is designed to provide safeguards on governance and accountability.

11:45

Fulton MacGregor: Amendment 102 seeks to require Healthcare Improvement Scotland to ensure that enforcement powers are applied in a way that is proportionate to both the size of the provider and the risk profile of the services delivered. Robust regulation is essential to public safety, but the amendment seeks to ensure that enforcement action, including fines, is fair, proportionate and targeted at genuine risk and serious non-compliance and avoids any unintended and disproportionate impacts on small providers for minor breaches.

As I have mentioned, the sector is predominantly made up of self-employed practitioners, many of whom are young working-class women, and we must ensure that those who wish to set up their own businesses and contribute to Scotland's economy are not put off by disproportionate penalties. Those in the industry robustly reiterate the need for safety first, and the amendment simply asks for enforcement to be proportionate, not lax.

I would note that amendment 102 is intended as a probing amendment, and I am clearly interested in the minister's thoughts at this stage.

Sandesh Gulhane: Amendment 104 seems rather sensible in setting out that, within a year of the bill coming into force, ministers must review how the enforcement provisions are working in practice. Such a review would include looking at the number of fines, whether multiple fines were being issued to the same practitioner, whether enforcement powers were providing enough of a deterrent and whether the level of fine should be modified as a result. We might find, for example, that behaviours that incur the maximum fine keep occurring, because they seem to be in the providers' interest. This is, as I have said, a sensible amendment, the purpose of which is to look at whether we are getting things right when it comes to fines.

Jenni Minto: I thank Ms Mackay for lodging amendments 26 and 27. I am aware that concerns have been expressed about the level of penalties in the bill as introduced, and I thank the committee for its comments in the stage 1 report. It is vital that the bill has teeth and sets penalties that act as a meaningful deterrent to any practitioners who choose not to engage with the new regulatory scheme.

Having listened to the committee, I appreciate that the level of penalties set in the bill will not be a sufficient deterrent to businesses that could be earning up to £5,000 per day. Amendments 26 and 27 seek to allow the offences in the bill to be triable either under summary procedure or on indictment. In such circumstances, the penalty that could be imposed by the court would be a maximum fine of £20,000 on summary conviction or an unlimited fine on conviction on indictment.

As with any offence that is triable, either under summary procedure or on indictment, it will be for prosecutors to decide on the appropriate

procedure based on the evidence provided to them. That represents a significant increase in the level of penalty that may be imposed, particularly in cases where more than one offence is committed—for example, providing a non-surgical procedure to a person under the age of 18 and outwith the permitted premises—or where repeat offences occur. In addition, no matter whether an offence had been committed under the bill, a person could still commit other offences if they caused harm, depending on the facts and circumstances of the case, and they would carry their own penalty. I therefore urge members to support amendments 26 and 27.

I recognise that Mr Golden's amendments 56 and 57 and Mr MacGregor's amendment 102 seek proportionality, transparency, good governance and accountability, but they also duplicate existing requirements on HIS and are therefore not required in the bill. With regard to amendment 56, I note that HIS inspections are based on publicly available standards, and it publishes its inspection reports for transparency purposes. It also has a complaints procedure, should providers not feel that those inspection reports are either fair or accurate.

In respect of amendment 57, HIS is required to comply with data protection legislation in relation to client information that it might obtain as part of its inspection processes. HIS also takes an improvement approach to support those whom it inspects to improve their services before it takes other action.

Like amendment 56, Mr MacGregor's amendment 102 seeks proportionate enforcement. The Scottish Government is not aware of HIS having used its enforcement powers in a disproportionate way, but if Mr MacGregor or anyone else is aware of concerns in that respect, I ask them to raise those concerns directly with me. If those concern relate to proportionate penalties, I point out that there is discretion that the courts or prosecutors can use.

Dr Gulhane's amendment 104 seeks to provide for a useful and insightful review. However, although I support the intention behind it, I consider that the asks that it makes could perhaps form part of a wider review provision of the kind that we will come on to when we discuss the group entitled "Review of Part 1".

I ask Mr Golden, Mr MacGregor and Dr Gulhane not to move their amendments.

The Convener: I invite Gillian Mackay to wind up and to press or withdraw amendment 26.

Gillian Mackay: I have nothing further to add. I press amendment 26.

Amendment 26 agreed to.

Amendments 53, 54 and 93 not moved.

The Convener: I call amendment 94, in the name of Sandesh Gulhane.

Sandesh Gulhane: Amendment 94 is an important amendment that addresses a subject that we need to have further discussions about, but, given what has been said, I will not move it.

Amendment 94 not moved.

Amendment 95 not moved.

Amendment 96 moved—[Fulton MacGregor].

The Convener: The question is, that amendment 96 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 8, Against 2, Abstentions 0.

Amendment 96 agreed to.

Section 5, as amended, agreed to.

After section 5

Amendment 55 not moved.

Amendment 97 moved—[Sandesh Gulhane].

The Convener: The question is, that amendment 97 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions
Mackay, Gillian (Central Scotland) (Green)

The Convener: The result of the division is: For 4, Against 5, Abstentions 1.

Amendment 97 disagreed to.

Amendments 98 to 100 not moved.

Section 6 agreed to.

After section 6

Amendment 56 moved—[Maurice Golden].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

Against
FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 8, Abstentions 0.

Amendment 56 disagreed to.

Amendment 102 not moved.

Amendment 57 moved—[Maurice Golden].

The Convener: The question is, that amendment 57 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Gulhane, Sandesh (Glasgow) (Con)
Mackay, Gillian (Central Scotland) (Green)
Whittle, Brian (South Scotland) (Con)

Against
FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 7, Abstentions 0.

Amendment 57 disagreed to.

Sections 7 to 11 agreed to.

Section 12—Penalties

The Convener: Does Sandesh Gulhane wish to move or not move amendment 103?

Sandesh Gulhane: Again, in order to have further discussions with the minister, I will not move the amendment.

Amendment 103 not moved.

Amendment 27 moved—[Gillian Mackay]—and agreed to.

Section 12, as amended, agreed to.

Section 13 agreed to.

After section 13

The Convener: Does Sandesh Gulhane wish to move amendment 104?

Sandesh Gulhane: It is a difficult one, because the minister said that she would come on to discuss the issue that my amendment addresses prior to the vote being taken. Given that I do not know what the minister is going to say, I will move the amendment.

Amendment 104 moved—[Sandesh Gulhane].

The Convener: The question is, that amendment 104 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Gulhane, Sandesh (Glasgow) (Con)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against
FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 104 disagreed to.

Amendment 28 moved—[Jenni Minto]—and agreed to.

The Convener: I call amendment 105, in the name of Sandesh Gulhane.

I apologise—I cannot call that amendment. We would have moved to consider amendment 105, which we have already debated, but we are unable to put it to a vote in the absence of a financial resolution.

Amendment 106 not moved.

Section 14 agreed to.

Schedule 2—Minor and consequential modifications of the 1978 Act

The Convener: Amendment 29, in the name of the minister, is grouped with amendments 32 and 33.

Jenni Minto: Amendment 29 is a consequential amendment to reflect Healthcare Improvement Scotland's extended role under part 1 of the bill in relation to non-surgical procedures. It will add reference to part 1 of the bill to sections 76 and 77 of the National Health Service (Scotland) Act 1978, so that inquiries can be held in relation to any matters arising under part 1 of the bill and orders can be made after any such inquiry in relation to any default by Healthcare Improvement Scotland in carrying out its functions in relation to non-surgical procedures. These powers are a last resort, but it is appropriate that any gap that is created where HIS acquires new functions is filled in a manner that is consistent with the approach taken where the powers were first included.

12:00

Section 17 of the bill amends section 18 of the Certification of Death (Scotland) Act 2011 so that medical reviewers will need to authorise cremation where deaths take place "outwith the United Kingdom". Amendment 32 makes a consequential amendment to section 14(1)(b) of the 2011 act in consequence of the change to section 18 of that act that is to be made by section 17 of the bill.

The Hydrolysis (Scotland) (No 1) Regulations 2026 were approved by Parliament in a vote on 21 January 2026. The regulations ensure that medical reviewers will have the power to authorise hydrolysis in the same way as they authorise cremation; the regulations also change the title of section 18 of the 2011 act. Amendment 33 amends the cross-reference to the title of section 18 in consequence of the hydrolysis regulations.

I move amendment 29.

The Convener: No other member has asked to speak on this group. Do you wish to add anything further, minister?

Jenni Minto: Only that I urge members to support amendments 29, 32 and 33.

Amendment 29 agreed to.

Schedule 2, as amended, agreed to.

Before section 15

Amendment 58 not moved.

Section 15—Interpretation of Part 1

Amendments 30 and 31 moved—[Jenni Minto]—and agreed to.

Section 15, as amended, agreed to.

After section 15

The Convener: Amendment 59, in the name of Maurice Golden, is grouped with amendments 107 to 109 and 111.

Maurice Golden: Amendment 59 would require transparent evaluation of whether the regulatory approach improves safety without having a disproportionate impact on access, business viability, workforce and enforcement capacity. Alongside that, I would hope that it would help to improve data capture and therefore inform future regulatory practice, and ultimately improve safety.

I move amendment 59.

Stuart McMillan: One of the aspects on which the Parliament has really let itself down over the years is the lack of post-legislative scrutiny; that point has been raised time and again. Were amendment 107—it is more of a probing amendment, to be fair—to be accepted, there would be some type of review of the legislation at some point in the future.

The figure of five years is arbitrary, so it is not set in stone. Nevertheless, the way in which the legislation has been drafted, with so much of the detail to come in subsequent regulations, was one of the reasons why I went for five years, because it would provide continued flexibility for the bill or any further legislation to be constantly updated over the period. That flexibility is hugely important.

I am convener of the Delegated Powers and Law Reform Committee, and when a bill comes forward to that committee that is considered to be framework legislation—if I may use that term—rather than legislation that contains a lot of detail, the committee has, at times, challenged the Government quite strongly on that. However, with this bill in particular, a framework approach is helpful. Given that it relates to such a fast-moving industry, that flexibility is hugely important. I thought that I would go for five years, because that would still provide an opportunity for Parliament to look at a constantly evolving industry and see whether any additional tweaks or changes are required.

Sandesh Gulhane: I tend to agree with Stuart McMillan that we do not do post-legislative scrutiny particularly well. The point of my amendment 108,

therefore, is very similar to his, in that it would look at the impact of the legislation on businesses. Again, much as Stuart McMillan has chosen five years, I chose one year as an arbitrary figure, so I would be happy to negotiate that in order that we can agree to an amendment that means that we would actually get some post-legislative scrutiny.

Carol Mochan: Amendment 109 would require the Government to carry out a review of the bill's impact on the NHS workforce. It arose from concerns about the impact that the bill could have on the NHS if workers are trained in a specific area and then pulled into the private sector. It is really a probing amendment to put on record Scottish Labour's concern about the impact that the bill could have on the NHS workforce, given the amount of pressure that it is already under.

Brian Whittle (South Scotland) (Con): I think that I know exactly where the member is trying to go with amendment 109. Would she not agree, however, that that is already happening? We are already losing nursing staff to aesthetics as things stand, and that is a really worrying trend.

Carol Mochan: Yes—it is something that we in Scottish Labour have been thinking about, and I lodged amendment 109 to probe whether the Government takes that issue seriously. We know that there are already pressures on the NHS workforce, so I would like to hear from the minister what the Government can or will do to ensure that, if the bill is passed, it does not disrupt our NHS workforce.

Sandesh Gulhane: At the risk of badgering the member from the other side of the table, I am a little concerned about whether individuals may choose to take a course simply to be allowed to go into aesthetics rather than to actually do the work for which they trained. Dental nursing is an example of where people might do a course simply to be able to practise, rather than to do dental nursing specifically, at a time when we are desperate for dental nurses. Would the member agree with that?

Carol Mochan: We have discussed that. The Government needs to ensure that we get the right person in the right place at the right time in whatever profession they choose, and back that up with the knowledge that we have the right staffing for public services.

I thank members for their interventions, which are much appreciated.

The Convener: I call Paul Sweeney to speak to amendment 111, in the name of Davy Russell, and to other amendments in the group.

Paul Sweeney (Glasgow) (Lab): I will speak to amendment 111, in the name of Davy Russell, who sends his apologies because he is at a friend's funeral and cannot attend the meeting today.

Amendment 111 would require the Government to evaluate whether the bill has accomplished what it sets out to do. After reviewing the amendments in this group, Mr Russell believes that that can be broadly accomplished by amendment 59, in the name of Maurice Golden, and by amendment 109, in the name of Carol Mochan, and so he would like to add his support to those amendments.

The only outstanding issue concerns the production of the evaluations: one on whether non-surgical cosmetic procedures have become safer, and one on whether there has been an adverse effect on the NHS workforce. Mr Russell would like the Scottish Government to be compelled to lodge a motion to repeal the bill within 12 months of the publication of both those reports—in other words, after the later of the two reports has been published—and seeks an assurance that the Scottish Government can commit to putting that in the bill.

Jenni Minto: This group of amendments reflects a range of different concerns. I am aware that not all members intend to press or move the amendments in the group, and I am grateful for the constructive comments that we have heard so far.

In the interest of safety, and on the grounds of certainty and continuity for business, I strongly resist amendment 111, because it makes provision about the expiry of part 1. However, it is reasonable that the Scottish Government be held to account on the effectiveness of that part of the bill, which will no doubt continue to be of interest in the next parliamentary session.

I turn to the remaining amendments. If amendments 59, 107, 108 and 109 were all pressed and agreed to, that would add significant pressure on Government and parliamentary time. If none of those amendments was pressed, the successor to this committee could open a programme of work reviewing any, or all, matters in relation to the bill. That could be done at a time of the committee's choosing, and the committee could take evidence from the Scottish Government and any other bodies that it saw fit to speak to. However, given the strength of interest in a statutory review led by the Scottish Government, it seems appropriate that a review should be undertaken that is sufficiently broad in scope, and at a time that allows a full consideration of the operation of part 1 of the bill.

Amendment 109 in Carol Mochan's name raises an important issue—and I appreciate her meeting me regarding it—but it appears too narrow, given the other interests that are appropriate here. Amendments 59 and 108 are both broader but I consider that, in each case, the specification that

is currently offered is likely to make a report more cumbersome and less able to address the issues that emerge. I believe that the amendments also require a report at a stage that is too early for the impacts—positive or otherwise—of the bill to have fully emerged.

On the other hand, Stuart McMillan's amendment 107 is sufficiently broad to allow all the issues that members raised to be considered and operates on a reasonable timescale, so that consideration could be as full as I am sure that members would expect. On that basis, I recommend that members support amendment 107.

I would be happy to discuss with members any other issues that they strongly feel need to be considered as part of the review, and I am happy to work together with Mr McMillan and other members on stage 3 amendments to the new section that Mr McMillan's amendment would introduce.

Sandesh Gulhane: Five years would put us at this stage in the next parliamentary session, so a review would take place during an election period. The matter could be further discussed, but I wonder whether the timescale could be set at four years, so that the review would not take place right at the end of a parliamentary session.

Jenni Minto: I will check that, but that is exactly the conversation that I think we need to have. You previously said one year, Stuart McMillan said five, so do we go down the middle and say three? I am happy to negotiate. However, if the review took place five years after the bill was enacted, that would be in the following parliamentary session.

Stuart McMillan: The amendment that I lodged says that the review should take place

"within five years of section 3 coming into force",

so it would not be in an election period, but afterwards.

The Convener: Minister, have you concluded your remarks?

Jenni Minto: Yes.

The Convener: I call Maurice Golden to wind up and press or withdraw amendment 59.

Maurice Golden: I am happy to press amendment 59.

The Convener: The question is, that amendment 59 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 6, Abstentions 0.

Amendment 59 disagreed to.

Amendment 107 moved—[Stuart McMillan]—and agreed to.

Amendments 108 to 111 not moved.

Section 16 agreed to.

12:15

Section 17—Deaths outwith the United Kingdom: authorisation of cremation by medical reviewer

Amendments 32 and 33 moved—[Jenni Minto]—and agreed to.

Section 17, as amended, agreed to.

Section 18 agreed to.

Section 19—Regulation-making powers

Amendment 4 moved—[Clare Haughey]—and agreed to.

Amendments 112, 113, 60, 61, 115, 117 and 118 not moved.

Amendment 34 moved—[Jenni Minto]—and agreed to.

Section 19, as amended, agreed to.

After section 19

Amendment 35 moved—[Jenni Minto]

The Convener: The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mackay, Gillian (Central Scotland) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions
Gulhane, Sandesh (Glasgow) (Con)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 8, Against 0, Abstentions 2.

Amendment 35 agreed to.

Section 20—Commencement

Amendment 119 not moved.

The Convener: Amendment 62, in the name of Jeremy Balfour, is grouped with amendments 63 and 121.

Jeremy Balfour: Amendment 62 seeks to ensure that the power to bring relevant sections of the bill into force is subject to a proposed 18-month delay. That would ensure that the commencement provisions are fully aligned with the intended transition period and would remove any uncertainty for business about timing.

Where legislation includes either a general commencement power or a specified delay, it is important that the relationship between the two is clearly stated and, perhaps more important, fully understood by all. Without that clarity, there is a risk of confusion or of different interpretations being made.

The amendment has been lodged to ensure that the 18-month delay cannot be shortened inadvertently through the use of commencement powers. It would strengthen the drafting of the bill by making the intended timescale explicit. If agreed, it would provide clarity and reassurance to business, practitioners and regulators about when the new regime would take effect. It would support a planned and orderly transition. If it is not agreed to, though, there might remain some uncertainty about how the commencement powers interact with the delay. Even if there is no intention to alter the timescale, lack of clarity in drafting can create avoidable ambiguity.

In summary, amendment 62 would provide necessary clarity and certainty on the timing of implementation, and it would ensure that the intended 18-month transition period could not be altered and that commencement provisions would operate exactly as Parliament would expect. By aligning the drafting of the bill with the stated timetable, the amendment seeks to promote transparency, to avoid ambiguity and to support a stable and orderly introduction to the new regime.

Amendment 63 seeks to provide that sections 1 to 14 of the bill may not come into force until 18 months after royal assent, establishing a clear and defined transition period before the main regulatory provisions take effect. As the bill introduces substantial changes to the supervision and regulation of non-surgical procedures, businesses will need time to understand the new requirements, review their arrangements, undertake any necessary training, formalise supervision agreements and adapt their operating models.

Many providers, as has been said on numerous occasions, are small businesses with limited admin capacity. Compliance might involve securing new premises, updating insurance arrangements, revising contracts and introducing new record-keeping systems, and those changes require planning and cannot be implemented immediately—and certainly not overnight—without the risk of disruption. That is particularly true for those who are sole practitioners. Similarly, regulators will require time to prepare guidance, develop registration systems, recruit and train staff and establish inspection processes. Effective regulation depends not only on policy design but on practical readiness.

Amendment 63 seeks to ensure that reform is introduced in a realistic and carefully managed way; an 18-month transition period would provide certainty and allow businesses and regulators to prepare properly. If agreed to, it would support orderly implementation, reduce the risk of rushed compliance, administrative backlogs or unintended closures, and increase the likelihood of a new regime operating effectively from the outset. If the amendment is not agreed to, commencement could occur sooner, placing undue pressure on business and regulators to meet new requirements within the shorter timeframe and increasing the risk of operational strain or disruption and, I am sad to say, some businesses going out of business.

In summary, amendment 63 would ensure that reform was delivered responsibly. It would not delay change unnecessarily, but ensure that, when the new regime came into force, it would do so on a stable and well-prepared basis.

I move amendment 62.

The Convener: I call Paul Sweeney to speak to amendment 121, in the name of Davy Russell.

Paul Sweeney: Amendment 121 seeks to provide for a delay that is very similar to that set out in amendment 63, in the name of Jeremy Balfour, with the exception of the length of that delay. The argument for having a delay of three years is to ensure that, in the event that other amendments to the bill do not pass, current practitioners would still be able to seek clarity on training requirements and make arrangements to qualify as registered prescribers, have an existing trained member of staff qualify as a prescriber or make provisions to hire a registered prescriber. Such a timeframe could also mean that price

increases caused by the bill could happen gradually, and it could avoid the rug being pulled out from beneath practitioners.

The three-year delay is about balancing the bill's safety aspects and the time that it takes to qualify as a prescriber. Mr Russell also notes that current practitioners are concerned that, if the bill were to pass without sufficient amendment, non-medical practitioners could not possibly function in the sector, and that a longer wind-down period allowing them to close rental and other contractual agreements, such as with medical waste management, would therefore be beneficial.

I should say that we would also support the 18-month delay period proposed in Mr Balfour's amendment 63 as an absolute minimum.

Jenni Minto: I have previously indicated my intention to commence the bill's key provisions in September 2027 to align with the Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026. Indeed, I have already made it clear that I do not intend to bring key sections of the bill into force until then.

Amendments 62 and 63, in Mr Balfour's name, would imply a similar but not identical timeline, delaying commencement by a few months, depending on the date of royal assent. In practice, that would imply that key provisions, including offences, would come into force in early 2028. I am concerned that the current drafting of amendment 63 would not only delay the commencement of offences but prevent us from progressing any regulations under the bill.

Jeremy Balfour: I have a couple of points that I would like to hear your thoughts on, minister. First of all, we do not want to prejudge the next election. I appreciate that you have given us a guarantee, but there could be a different Government, and a different minister, with a different view. There needs to be something in the legislation to perhaps give clarity just in case there is a change of Government, or a different colour of Government.

Secondly, the 18-month proposal is, I suppose, an opening gambit—like you, minister, I am open to negotiation. Are you willing to accept an amendment that sets out what you plan to do anyway, namely to commence the bill's key provisions in September 2027? Would you be open to that type of amendment?

Jenni Minto: I will continue with my remarks, because I am going to address the point that Mr Balfour has just made.

I am concerned that a delay would mean that it would not be possible to progress work on a scheme under section 26 of the United Kingdom Internal Market Act 2020 and training standards in advance of the main provisions coming into force. I am of the view that bringing in regulations early will be better for businesses and enforcement agencies, even if those amendments can come into force only at the same time as the offences.

I am happy to work with Jeremy Balfour on an alternative approach that might be brought in at stage 3 to give businesses clarity about what they will need to meet the bill's requirements. In return, I ask the member not to press amendment 62 and not to move amendment 63.

As for amendment 121, in Mr Russell's name, I cannot support the length of delay that he has suggested, as it would prevent us from taking essential steps to improve safety in the sector. I do not believe that the amendment meets public concern on the matter, and I hope that other members will agree. Therefore, I urge that amendment 121 not be moved.

The Convener: I call Jeremy Balfour to wind up and indicate whether he wishes to press or withdraw amendment 62.

Jeremy Balfour: In light of the minister's remarks, I seek the committee's agreement to withdraw the amendment.

Amendment 62, by agreement, withdrawn.

Amendments 63, 120 and 121 not moved.

Section 20 agreed to.

Section 21 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. At our next meeting, we will take oral evidence from selected stakeholders on sport and physical activity.

That concludes today's meeting.

Meeting closed at 12:28.

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