

The Royal College of Podiatry's response to Welsh Government consultation on draft regulations and statutory guidance for a mandatory licensing scheme for special procedures in Wales

4 April 2024

Introduction

The Royal College of Podiatry is the professional organisation and trade union for podiatrists in the UK. The College represents qualified, regulated podiatrists across the UK and supports them to deliver high-quality foot and lower limb care and to continue to develop their skills.

Podiatrists are highly skilled healthcare professionals trained to diagnose, treat, rehabilitate, and prevent complications of the foot and lower limb. They enable people to manage foot and ankle pain, skin conditions of the foot and lower limb, treat foot and lower limb infections, and detect, assess and manage lower limb neurological and circulatory disorders.

Our position

The Royal College of Podiatry believes that podiatrists should be exempt from the mandatory licensing scheme. Podiatrists are regulated by the Health and Care Professions Council (HCPC) and are required to demonstrate that they meet standards of conduct, performance and ethics, standards of education and training, and the standards of proficiency.

We regret that having sought legal advice, Welsh Government inform us that they are unable to exempt podiatrists unless they are operating from a "regulated healthcare setting". This fails to recognise that the majority of self-employed podiatrists and small podiatry practices in the independent sector are not currently required to apply for HIW registration due to the fact that they are fully regulated healthcare professionals. We are concerned that the licensing scheme will incur unnecessary costs and has the potential to deter podiatrists from offering acupuncture, without adding to the existing safeguards for their patients that already exist as a result of HCPC registration.

We recognise that this consultation cannot revisit the subject of the licensing scheme itself, however we urge Welsh Government to reconsider this aspect of the legislation to ensure that the licensing scheme is focused on the areas of highest risk, rather than instances where an already regulated professional practices a relatively low risk procedure.

The consultation questions

	Please give reasons for your answers when responding.
1 - The Special Procedure Licences (Wales) Regulations 202X	

1a	Do you think these draft Regulations adequately set out how individuals are to be licensed?
	Answer: Yes
1b	Is there anything unclear, missing that should be included, or included that should not be?
	<p>Answer:</p> <p>We would suggest that for podiatrists and physiotherapists who practice acupuncture the application processed might be streamlined. We suggest Welsh Government consider an option for these professions to give their HCPC registration number on their application, which already requires them to demonstrate that they meet the necessary standards of proficiency for their profession, and might remove the need for other evidence. This could enable their application to be fast tracked, allowing the licensing scheme to work more efficiently and focus on those who are not regulated. If this is accepted then we would also suggest that a reduced application fee for such applicants should apply to reflect this.</p>
2 - The Special Procedures Approved Premises and Vehicles (Wales) Regulations 202X	
2a	Do you think these draft Regulations adequately set out how premises and vehicles are to be approved?
	Answer: No
2b	Is there anything unclear, missing that should be included, or included that should not be?
	<p>Answer:</p> <p>The regulations suggest that there should be an exemption for a premises to be approved when the procedure is for palliative care purposes. However this fails to recognise the problem in defining 'palliative care'. It also fails to account for those who may be housebound, yet have acupuncture as a form of pain management/relief and could remove this treatment option for them.</p> <p>We would suggest that a better distinction would be to exempt all domiciliary visits for acupuncture when conducted by a physiotherapist or podiatrist who are HCPC registered. As part of HCPC standards these professions will be trained in making risk assessments and personalised treatment plans, and proficient in record keeping around that, as well as having necessary safeguards in place.</p> <p>We would also emphasise that acupuncture is one of the safer procedures included in the special licensing regulations, with the rapid review of evidence published for Welsh Government suggesting that the incidence of a serious adverse event was low at 0.001% for acupuncture. Given these mitigating factors, we believe any risk to individuals are minimal and would also be managed in the full assessment made by HCPC registered professionals. Thus we cannot see any reason to restrict the exemption to domiciliary visits for palliative care, and would recommend widening this</p>

	restriction to all domiciliary visits, including those to residents of care homes, nursing homes, and hospices.
3 - The Special Procedures Exempted Individuals (Wales) Regulations 202X	
3a	Do you think these draft Regulations adequately set out how the specified individuals are to be exempt?
	Answer: No
3b	Is there anything unclear, missing that should be included, or included that should not be?
	Answer: We are concerned that the regulations around exempted individuals are complex and will require further explanation and emphasis to clarify for both local authority and practitioners that while an exemption exists for physiotherapists and podiatrists, in a significant number of cases it will not apply as they will not be working from a “regulated healthcare setting”. The rationale for doing this also requires further explanation and a risk assessment. We would encourage Welsh Government to provide further guidance around this to accompany the regulations.
4 - The Special Procedure Licensing Committees (Wales) Regulations 202X	
4a	Do you think these draft Regulations adequately set out how licensing committees are to operate for the purposes of this mandatory licensing scheme?
	Answer: We have no comments on these regulations.
4b	Is there anything unclear, missing that should be included, or included that should not be?
	Answer:
5 - The Prescribed Objects for Body Piercing (Wales) Regulations 202X	
5a	Do you think these draft Regulations provide an adequate definition of ‘object’ for the purposes of non-intimate body piercing within this licensing scheme?
	Answer: We have no comments on these regulations
5b	Is there anything unclear, missing that should be included, or included that should not be?
6 - Statutory Guidance	
6a	Do you think the draft Statutory Guidance adequately explains how a local authority should determine a ‘person’s fitness to perform a special procedure’ for licensing purposes under the mandatory licensing scheme, where this has been called into question?
	Answer: Yes
6b	Is there anything unclear in the draft Statutory Guidance that should be explained further?
	Answer:
6c	Is there anything in relation to determining a ‘person’s fitness to perform a special procedure’ that is unclear or missing from the draft Statutory Guidance?

	<p>Answer: For those physiotherapists and podiatrists applying for a licence, it may also be helpful to refer to HCPC's guidance on determining fitness to practice for those who have a criminal conviction, available at https://www.hcpc-uk.org/education/resources/education-standards/students-health-and-character-issues/applicants-with-convictions/.</p>
Statutory Questions	
7	<p>We would like to know your views on the effects that the mandatory licensing scheme for Special Procedures in Wales would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.</p> <p>What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>
	Answer:
8	<p>Please also explain how you believe the proposed mandatory licensing scheme for Special Procedures in Wales could be formulated or changed so as to have</p> <ul style="list-style-type: none"> • positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and • no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.
	Answer:
9	<p>We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.</p>
	<p>Answer:</p> <p>We are understanding of the wider need for this licensing scheme. However, we believe that adding extra regulation to an already regulated profession, such as podiatry, offers little additional benefit to public safety. We have concerns that there will be adverse effect on our members, adding bureaucracy and cost, without any increase in public safety. This could potentially deter podiatrists from offering acupuncture as a treatment option and affect their ability to offer pain relieving options within a clinically safe environment. We understand that Welsh Government have sought legal advice around the exemption and are unable to alter the regulations to accommodate this but ask that they monitor closely the impact of the regulations and keep under consideration the option to review this legislation as it applies to podiatrists.</p>

For further information, please contact:

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