

Scottish Government

Amendments to the regulation of independent healthcare

A response by the Association of Personal Injury Lawyers

April 2023



Introduction

APIL welcomes the opportunity to respond to the Scottish Government's consultation on amendments to the regulation of independent healthcare.

APIL is supportive of all the proposals put forward in the consultation paper, namely enabling Healthcare Improvement Scotland to regulate pharmacists and pharmacy technicians and independent medical agencies, including those providing services online. Further, we also agree with the proposal for Healthcare Improvement Scotland to be enabled to cancel the registration of any independent healthcare service that fails to pay its continuation fees.

APIL has only responded to questions within our remit.

2. Do you agree that independent health care services provided by pharmacists and pharmacy technicians which are not provided from a registered pharmacy or under the terms of an NHS contract should be regulated by Healthcare Improvement Scotland?

Yes, we agree that independent healthcare services provided by pharmacists and pharmacy technicians which are not provided by a registered pharmacy or under the terms of an NHS contract should be regulated by Healthcare Improvement Scotland. We believe that this would guarantee that all services provided by pharmacists are regulated uniformly. There might be pharmacies providing non-NHS services, for example, weight loss clinics, and non-NHS vaccination which could be a risk of harm for patients. It is important to make sure that the smaller and less known pharmacies are regulated to ensure that the same standards of care apply.

3. Do you agree that independent medical agencies where services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife, dental care professional, pharmacist or pharmacy technician should be regulated by Healthcare Improvement Scotland?

Yes, we agree that medical agencies where services are provided by a medical practitioner, dental practitioner, registered nurse, registered midwife, dental care professional, pharmacist or pharmacy technician should be regulated by Healthcare Improvement Scotland.

In other areas, consumers are advised to look for a mark or status that indicates that the service being provided is regulated. We believe that independent medical agencies, including those providing services online, should be required to demonstrate their regulatory status to make sure there is a standard of competence and care. We believe that this would also be key to informing and protecting consumers.

4. Do you agree that unregulated independent medical agencies operating entirely online and headquartered in Scotland, should be regulated by Healthcare Improvement Scotland?

Yes, APIL agrees with this proposal.

There might be a risk of harm for patients who might access these services due to the lack of supervision over online consultations. Currently, a patient can just go online and answer a few questions to get a prescription. We believe that online medical agencies should be regulated to ensure that the advice provided to patients is accurate and safe.

This proposal will also bring the regulation of independent medical agencies in line with the provisions in England, where the majority of online providers headquartered in England are regulated by the UK Government through the Care Quality Commission. We are also pleased that the proposed regulation of online health care under independent medical agencies will be consistent with the approach taken by regulators in Wales and Northern Ireland, which have similar regulatory frameworks to Scotland. We believe that having a standardised approach through the four UK home jurisdictions will guarantee cooperation in the regulation and inspection of the services provided to patients.

APIL believes that this proposal is also important when considering a clinical negligence claim, as it would be easier to pursue a claim against an online medical agency that is regulated and registered in Scotland.

5. Do you agree that Healthcare Improvement Scotland should be able to cancel the registration of any independent health care service that fails to pay its continuation fees after a certain period of time?

Yes, we agree with this proposal. Enabling Healthcare Improvement Scotland to cancel the registration of any healthcare service that fails to pay its continuation fees will ensure that only appropriately regulated services will be able to practise.

8. What are your views on how further regulation of independent health care in Scotland might affect access to safe, high-quality public services in island communities?

APIL believes that further regulation of independent health care would be helpful to protect patients in island communities. Considering islanders might have limited access to public services, they could turn to online services, which are easier to access. The proposals in this paper would ensure that the services accessed by island communities are safe and effectively regulated.

-Ends-

Any queries about this response should be, in the first instance, directed to:

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