

# General Medical Council (GMC) response to Welsh Government consultation on Mandatory Licensing of Special Procedures in Wales

Thank you for your invitation to comment on the Welsh government's consultation on the introduction of mandatory licensing of special procedures in Wales, and in particular to provide our views on the following element of the proposal: Exempted Individuals outlined in Section 60 of the Public Health (Wales) Act 2017 and discussed on page 27 of your consultation document.

We recognise that Welsh government's intention is that our registrants should not have a blanket exemption for all four special procedures. We also recognise that the intention is for the exemptions set out in regulation to be tailored to take into account the practices undertaken by our registrants, and that any named procedure should be within that registrant's area of expertise and be considered 'in scope' and therefore subject to indemnification.

We note that you have asked us to comment on this matter, as well as specifically whether our registrants could safely perform any of the named special procedures without a licence.

## Performance of any of the named special procedures without a licence

The GMC will be responsible for the [regulation of Anaesthesia Associates \(AAs\) and Physician Associates \(PAs\) in the future](#) (currently expected to be from late 2024). Because the consultation lists the regulator of professions at paragraph 7.1(a)-(ga), rather than the specific professions those bodies regulate, we have taken the consultation to be including both doctors and AAs and PAs as being exempt from the special procedures licence where they meet the criteria. We have accounted for this within our response as far as is practicable given that we do not currently regulate these professions. It is also worth clarifying that the licence to practise is a requirement for doctors to practise in the UK. However there will not be a requirement for AAs and PAs to hold a licence in addition to their registration with us. So, when we talk about licences to practise, we are only referring to doctors.

The [Medical Act](#) sets out a number of '[privileges of registered practitioners](#)' (Part 6, sections 46 to 48 inclusive), and also outlines other activities, for which a doctor must hold a licence to practise in order to undertake this activity within the UK. As well as the Medical Act, there are many other pieces of legislation that set out when a doctor must hold a licence; the legislation under consultation will be another example of this.

---

Doctors in the UK undertake a wide scope of activities, and there are a significant number of pieces of legislation not owned by us which specify when a doctor must hold a licence to practise. This means that we can't provide advice on specific roles and whether roles or activities are restricted to medical professionals, and so we are unable to confirm whether doctors could safely perform any of the named special procedures without a licence. The responsibility is on the professional to keep up to date with and follow the law, our guidance, and other regulations relevant to their work. It is a professional's responsibility to make sure they comply with any legislation that requires them to hold a licence for the work that they do. Doctors are advised to discuss their need to hold a licence to practise with others who may be able to advise them if they are unsure. This might include: their employer, their medical defence organisation, their insurance and indemnity provider, and/or their Royal College or Faculty.

We have produced a list of [discussion points about whether a doctor needs a licence to practise for the work they undertake](#) which may be helpful in your considerations. This was produced for doctors, employers, healthcare providers and organisations contracting with doctors. The purpose of this document is to support discussions about whether a doctor needs a licence to practise for the work they undertake.

## **GMC response to section seven of the consultation**

Please find our response to consultation questions 8 and 10 below. We have not responded to questions 9, 11 and 12 as they sit outside our regulatory remit.

### **Question 8 – Do you agree with the principle of this proposal that regulations should be made to limit the exemptions on members of the listed professional bodies in section 60?**

We agree that there should be limits on the exemptions for our registrants. Our reasoning is outlined below. We believe the exemption is helpful to avoid burden where a professional is already regulated, and to prevent activities a doctor undertakes being prohibited. This is particularly the case given the ability for this legislation to be expanded in future to cover other procedures as required. However we support the limits on this exemption as necessary to ensure effective protection of patients.

As registration with the GMC covers professionals undertaking a wide range of activities, we think it is important to specify the limits; being registered with the GMC does not mean that a registrant is competent and safe to undertake all medical procedures.

An individual professional's competence to undertake activities depends upon a range of factors, including: the specific training they have had, their experience, the specific role they are undertaking, and the setting(s) they work within. In this context we agree it is important that

---

there are limits on the exemption for doctors to hold a special procedure licence. We also agree that the exemption should only apply where the special procedure falls within the professional's area of expertise and where they are competent to undertake such a procedure.

We suggest making clear in the legislation that exempt individuals must declare this work, as required, to the relevant regulatory body. For example, doctors would be required to declare this as part of their scope of practice for revalidation, as would AAs and PAs following regulation. This is important to ensure patient safety given that the exemption is based on the activity being part of the individual's medical practice and by virtue of their regulation by the GMC. Given that many doctors have portfolio careers, our regulation of doctors is in part reliant on the requirement for them to declare their whole scope of practice through revalidation, to ensure that information about their whole scope of practice can be shared.

## **Question 10 – Do these exemption principles for individuals and premises adequately protect the safety and health of the client?**

We agree with the position laid out under paragraph 7.3 of the consultation, that registrants of listed regulatory bodies would not hold a blanket exemption, and with the limits laid out within the four bullet points.

For the exemption principles for individuals and premises to adequately protect the safety and health of the client, we propose the following clarifications or amendments:

- *'The individual must be registered with a qualifying regulated mandatory professional body'*
  - We suggest that the wording of this point is amended to read: 'The individual must be registered, and hold a licence as required, with a qualifying regulated mandatory professional body.'
  - The revised wording accounts for the fact that, in the case of doctors registered with the GMC, being registered with us on its own is not enough. Where the activity constitutes medical practice, they must also hold a licence to practise if the doctor has determined that this is required for the work that they do.
- *'The special procedure is within their area of expertise and is considered 'in scope' and is therefore the subject of indemnification by the organisation they work for, or through self-indemnity if self-employed'*
  - We note the mention of 'training' in para 7.2, but that it is missing from the wording of this exemption principle.
  - We suggest that it is necessary for the exemption principle to very specifically require: that the individual undertaking the special procedure has the required training for it; the

---

special procedure to sit within their specialist area (area of expertise); and that the individual must be competent to perform it.

- *'The special procedure is performed within the National Health Service or privately regulated healthcare service regulated by Healthcare Inspectorate Wales (HIW)'*
  - On the understanding that all four requirements must be met for the exemption to apply, we are content that this is sufficient.
  - This understanding is further to para 7.5 of the consultation document – which clarifies that there are settings that these activities could be undertaken in which are not regulated by HIW, and that undertaking these procedures in these settings would not warrant an exemption, even where a professional is registered (and licenced as required) with us and the activity falls within their scope of expertise and competence.
- *'If the individual ceases to be registered for any reason, their exemption would cease, and they would have to obtain a special procedure licence if they still wished to perform that special procedure.'*
  - We suggest that the wording of this point is amended to read: 'If the individual ceases to be registered, and licenced where required, their exemption would cease and they would have to obtain a special procedure licence if they still wished to perform that special procedure'
  - The reasoning for this change is per the reasoning for the change to bullet one.