



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**The Health and Personal Social Services
(Primary Medical Services Performers
Lists) (Amendment) Regulations
(Northern Ireland) 2010**

2 December 2010

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AND PUBLIC SAFETY**

**The Health and Personal Social Services (Primary Medical
Services Performers Lists) (Amendment) Regulations
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Members present for all or part of the proceedings:

Mr Jim Wells (Chairperson)
Mr Pól Callaghan
Mr Alex Easton
Mr Tommy Gallagher
Mr Sam Gardiner
Mr Paul Girvan

Witnesses:

Mr Robert Kirkwood) Department of Health, Social Services and Public Safety
Ms Siobhan McKelvey)

The Chairperson (Mr Wells):

I welcome Mr Robert Kirkwood, who is the primary care director and Siobhan McKelvey, who is also from the primary care directorate. Would you prefer to make an opening statement or take questions straightaway?

Mr Robert Kirkwood (Department of Health, Social Services and Public Safety):

I will make an opening statement. At the Committee's meeting on 25 November, queries were

raised about why the provisions in the legislation would allow GPs to be put on the performers' list prior to the result of an enhanced criminal record check. There were queries about whether GPs were being treated as special cases in that regard, compared with the other professions, and whether criminal checks included soft information. I will try to address those three queries. Following that, I will answer any further questions.

By way of background, the legislation amends the Primary Medical Services (Northern Ireland) Order 2004. A doctor cannot provide primary medical services unless he or she is on the Health and Social Care Board's primary medical services list. The list was introduced as part of the contract in 2004 and relates to GPs only. In Northern Ireland, there is a primary medical service performers' list for GPs only. There are no lists for the other three professions: dentists, pharmacists and opticians. The provisions in the rule will be introduced only in the event of a national emergency. The rule is to allow GPs on to the performers' list, without going through the lengthy application process that is normally in place. Therefore, the answer to the Committee's first query is that GPs are not being treated as special cases under the legislation, because the performance list regulations apply to GPs only. There are no lists for the other professions. Therefore, we are not treating GPs differently from how we treat the other professions.

The rule allows the board to bring certain GPs quickly on to the list. It applies only to GPs who have been registered with the General Medical Council (GMC) under emergency powers in the Medical Act. GPs who are allowed on to the GMC register under the Medical Act 1983 are defined as emergency registered practitioners. The new legislation does not apply to all GPs; it applies only to those who are defined in the regulations as emergency registered practitioners.

For a GP to register as an emergency register practitioner, the GMC must be satisfied that the doctor is a fit, proper and suitably experienced person, as is referred to in the legislation. The GMC will undertake certain checks on the individual to allow GPs on to its register prior to their registration on the primary medical performers' list.

When we were considering the policy behind the legislation, it was considered that, in the event of an emergency, the policy to allow a GP on to the performers' list, prior to the results of an enhanced criminal record check, created the correct balance between the need to ensure patient safety and the need to get GPs on to the list as speedily as possible.

I hope that that answers the question on why, in the event of a national emergency, the legislation makes the provision to allow an emergency registered GP on to the performers' list and to provide primary medical services prior to the results of his or her enhanced criminal record check.

The Chairperson:

What about the soft information?

Mr Kirkwood:

An enhanced criminal record check is carried out by AccessNI. That is the best criminal record check available, not only for GPs, but for teachers and social workers. AccessNI carries out three levels of check: basic, standard and enhanced.

The enhanced check includes spent and unspent convictions, cautions and any other information that is held on police records, such as attempted prosecutions that have been unsuccessful and any information that the police have on behaviours that might be indicative of criminal behaviour. That is the best check at present.

The Independent Safeguarding Authority has a vetting and barring scheme that is meant to provide a more in-depth check and would have covered more soft information. Unfortunately, that has been suspended. The coalition Government want the scheme to be reviewed and scaled back to what they call a common-sense level. Therefore, registration with the Independent Safeguarding Authority is not available at the moment. The best criminal check available at the moment is, therefore, the enhanced criminal record check through AccessNI.

The Chairperson:

Pól and Tommy, you were the two main instigators of today's meeting. Have any of your questions been left unanswered?

Mr Gallagher:

No, and I thank Mr Kirkwood. His explanation was clearer than the information that we received last week. You say that a GP does not get on to the performers' list unless he or she is already on the GMC accredited list?

Mr Kirkwood:

Correct.

Mr Gallagher:

You used words such as “fitness” and said that people must be properly registered to get on to the GMC list. Will you go over the terminology again?

Mr Kirkwood:

Section 18A of the Medical Act 1983 advises the GMC that a practitioner may be registered, under the emergency powers if he or she is a “fit, proper and suitably experienced” person with regard to the emergency. This legislation amends the performers’ list regulations to allow a doctor to be quickly recruited, or put on to the list, and it applies only in relation to the emergency.

The next issue arose during our initial discussion of the policy with the Committee. A member asked about an individual who has been put on to the list under the shortened application process. The question was what happened to him or her when the emergency comes to an end. When that happens, the practitioner who has been registered in that way will be removed from the list. The practitioner is put on the list only for the duration of the emergency, after which he or she is taken off. Regulation 3 in the legislation includes a definition of an “emergency registered practitioner”.

Another safeguard in place is that the board cannot put a GP or a doctor on the list unless he has or she been on the list within the previous five years. The purpose of that is to allow retired GPs, in the event of an emergency during which a sufficient number of GPs are unavailable to provide services, to be returned quickly to the list.

Mr Gallagher:

That is more reassuring.

Mr Callaghan:

I raised the issue of soft information and the threshold of checks. I am content with the explanation and the additional information that has been provided today. One thing occurred to

me when you were speaking, Mr Kirkwood. We understand that this is, effectively, an emergency or contingency provision. However, at the same time, for someone who is intent on perverting or abusing, it presents an opportunity, and we must safeguard against that. That is the reason for our queries.

I would like more information on the scope of the AccessNI checks. I represent a border constituency. Would the attempted prosecution by the guards of a GP in Ballybofey, who had retired two years previously but was now living in Derry, be flagged in an AccessNI check after his or her name had been submitted to the board's emergency performers' list?

Mr Kirkwood:

I would not like to give a definitive answer on the level of check that is carried out by AccessNI, whether in the United Kingdom or the Republic of Ireland. However, I can find out for you.

Mr Callaghan:

That is not necessarily an objection to the provisions of this instrument, but it is an obvious issue.

The Chairperson:

It also raises a more fundamental issue. Even in a non-emergency situation, if a doctor transfers across the border — if he walks across the bridge between Lifford and Strabane — does his criminal record follow him?

Mr Kirkwood:

Sorry, if a doctor?

The Chairperson:

Say, for example, a doctor who is based in Lifford blots his copybook. Something has happened, and the intelligence states that he is not suitable to practise, but he decides to walk across the bridge to open a practice in Strabane.

Mr Kirkwood:

Well, he could not practise there until he got on to the performance list.

The Chairperson:

Would his criminal record travel with him across the border?

Mr Kirkwood:

Yes, it would.

Mr Callaghan:

What if it were not a criminal record? AccessNI's enhanced check has a higher threshold. Would an unsuccessful prosecution also travel?

Mr Kirkwood:

I do not know how detailed the enhanced criminal record certificate is when it comes to what might be called "soft" information from outside the United Kingdom. I would like to check that with AccessNI. All that I am saying is that whether it does or does not, an enhanced criminal record certificate is the best check available at present. We cannot go any further or do any more.

An enhanced criminal record check is like an MOT, in that it is valid only on the date on which it is done. A GP could be on the list now, based on an enhanced criminal record check that was conducted 10 years ago. That GP might have committed this, that or the other offence within those 10 years without anyone knowing about it. Therefore, the Independent Safeguarding Authority was to have corrected that by requiring GPs, teachers, social workers and anyone dealing with the public, to register with it, and the criminal checks of such individuals would have become ongoing. Unfortunately, the legislation and the policy surrounding the safeguarding authority have, more or less, been kicked into touch, because the Government regarded the measures as draconian, and they wanted the policy scaled back to what they called common-sense measures. Therefore, for now, what we have is the enhanced criminal record check through AccessNI.

The Chairperson:

In a nutshell, when somebody moves, does the Republic of Ireland share its enhanced criminal record checks with the authorities here? That is a simple question, and it would be useful to know the answer. The same would apply to someone moving from Lithuania, Poland or any number of countries. Gone are the days when all that we had were local GPs. The sort of person who would move is someone who had got into difficulties but not been prosecuted in one

country. He or she would move the practice elsewhere. We would like to think that that information —

Mr Kirkwood:

I am 99% sure that the information follows the individual, but I would like to check that.

The Chairperson:

Will you write to the Committee with an answer?

Mr Kirkwood:

I will. I would like to check the scope of AccessNI's checks outside Great Britain.

The Chairperson:

I hope that Ms McKelvey is not offended, because she has not had a chance to say anything yet.

Ms Siobhan McKelvey (Department of Health, Social Services and Public Safety):

That is fine. I am quite new to this area of work, although I will be taking it over in the near future.

The Chairperson:

You are watching and learning. In the absence of any other questions, I thank the witnesses for their evidence.