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2 Deputy M.R. Le Hegarat of St. Helier of the Minister for Health and Social Services regarding the jurisdiction of his Department in respect of private patients in circumstances where a Hospital Consultant had been suspended: [OQ.87/2019]

Further to the response to Oral Question 139/2019, will the Minister reconsider the statement that his department has 'no jurisdiction' in respect of private patients in circumstances where a hospital consultant has been suspended, in order to identify actions that can be taken by his department to ensure the needs of such patients are protected?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

I would start by saying that in all such cases, which of course span a wide spectrum of activity, the safety of all patients is paramount. Suspension, in itself, seeks to be a neutral act, but if the matters were so serious that they raised issues around safeguarding, or the public were judged to be at risk, then Health and Community Services might take action and alert the relevant authorities. The individual would also, typically, be informed of any such action. Where Health and Community Services has placed restrictions on practice, the practitioner should also agree not to undertake any work in that area of practice with any other employer. Where it is believed that the practitioner is practising in breach, or defiance, of an undertaking not to do so, Health and Community Services may contact the professional regulatory body and the Medical Officer of Health.

3.2.1 Deputy M.R. Le Hegarat:

I am concerned that this does not really allow a private patient much protection. This member of staff, this consultant, has been employed by the States of Jersey in the Health Department. Will he go back to his department and please look at the possibilities of having something whereby a private patient can make a complaint to the department, if they have concerns about that particular consultant? It would appear, at present, that there is no such facility and the only person that they can complain to is the person that is their consultant. Will the Minister please undertake research and make sure that a private patient, who is being seen by an employee of the States of Jersey, is able to make a complaint to that department?

The Deputy of St. Ouen:

The Deputy ended her supplementary question talking about the private patient that is being seen by an employee of the States of Jersey. But the private patient is not being seen by the consultant in his capacity as an employee. The private patient is being seen, at the choice of the individual concerned, as a private practitioner, because many of our consultants do also carry out their private practices. They do that in addition to their employment by the States Employment Board. We are acting as employer in certain circumstances, but we are not their regulatory body. So, therefore, it seems to me and the department that we cannot give any sort of warning, or provide any sort of list of persons who may be suspended from their employment where they are still authorised and remain entitled to carry on their private practice. As I have said in my first answer, if matters were so serious that they raised issues around safeguarding, or the public were judged to be at risk, then there are certain things that the department can do. But if it is a matter that suspension has arisen for something unrelated to risk, or safeguarding issues, then it would be professionally wrong, I believe, for the department to interfere in an individual's private practice.

3.2.2 Deputy R. Labey of St. Helier:

Do these private practices occur on the Minister's department's property? Is his department liable if there is any neglect on the part of the surgeon, or medic?

The Deputy of St. Ouen:

I believe the answer in both cases is no.

3.2.3 Deputy M.R. Le Hegarat:

Based on what the Minister says, would he please ensure that there is some guidance, that members of the public can see, that if they engage in the private capacity with a consultant, who is employed by the hospital - I accept and see what he says - however, there has to be something that individuals are made aware that if they undertake to see a consultant privately, that they are not protected.

The Deputy Bailiff:

Deputy, this has to be a question.

Deputy M.R. Le Hegarat:

That is what I was saying. Can he please ensure that there is something put out to the public to make sure that they are aware of this fact?

The Deputy of St. Ouen:

I do wish to understand the Deputy's concerns and I will always be available to discuss those in detail, or to meet her constituent, if it is a constituent, who has expressed these concerns. My worry is that we infringe the fundamental right of a professional to practice his, or her, skills as an independent practitioner and we go outside the terms of our employment contract and jeopardise the professional status of that individual, for which we could then suffer serious consequences. It is a complex and difficult issue to try and provide some guidance where the suspension by the department might not relate to the public being at risk. I cannot see an easy answer to this, which might satisfy the Deputy, but I confirm I remain willing to discuss the issue with her, or her constituent.