

Mr Stephen Donnelly TD,
Minister for Health,
Department of Health,
Block 1, Miesian Plaza,
50 – 58 Lower Baggot Street,
Dublin 2.

Dear Mr Donnelly,

I refer to your Department's response dated 29th January 2021 to our note of 2nd July 2020 which sought, inter alia, the definition of professional misconduct under the Medical Practitioners Act 2007 ("the Act"). Since these correspondences, at least one medical doctor has been arrested by An Garda Síochána in an inquiry into 200 false insurance claims. There has also been a number of personal injuries cases thrown out of the Circuit and High Courts where there was a marked and medically inexplicable divergence between the medical reports submitted by plaintiffs in support of their statements of claim, and medical reports subsequently carried out on the same plaintiffs by insurers.

In our view, it is a very serious matter for a regulated profession such as the medical profession that the investigators of first instance into misconduct are An Garda Síochána. The matters complained of in our July 2020 letter are not new, and investigative reporters have found evidence of cartel-like behaviour¹ between some doctors and solicitors in the fabrication of exaggerated or false claims. The fact that there does not appear to be any inquiry by the Medical Council is indicative to us of regulatory failure.

While we understand your Department's position that "*Professional misconduct is intended to encompass a wide range of conduct and it is considered that defining it by means of certain actions or behaviours, including those suggested in your letter could restrict its application as well as constituting a significant change in policy*" we do not agree with it, and in our view it is demonstrably failing to tackle misconduct in the formulation of medical reports. In the absence of a legal definition of misconduct in the Act, its misconduct provisions are a dead letter, much as perjury was pending a statutory definition of the offence. However, rather than defining professional misconduct as a series of named acts or omissions, we suggest that your Department adopts a definition analogous to that used in the Legal Services Regulation Act 2015, which defines misconduct (for a solicitor) as an act or omission which "*in the case of a solicitor, is likely to bring the solicitors' profession into disrepute.*" We would welcome your views on this proposal.

Yours sincerely,



Neil McDonnell
Chief Executive

¹ <https://www.independent.ie/irish-news/revealed-how-gps-and-lawyers-are-fuelling-our-compensation-claims-culture-38761900.html>