

URHP Response to Department of Health Consultation Document

From the Unified Register of Herbal Practitioners

30/09/2009

Response to DOH Joint Consultation on the Report to Ministers from the DH Steering Group on the Statutory Regulation of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK.

See http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_103567.

Consultation questions and answers:

1. Question 1

What evidence is there of harm to the public currently as a result of the activities of acupuncturists, herbalists and traditional Chinese medical practitioners?

What is its likelihood and severity?

The Consultation's own text, pages 20-21 and Annex B describes clearly the risks and evidence of harm.

What is not mentioned is that certain herbs are at the moment allowed to be used by qualified herbal practitioners under The Medicines (Retail Sale or Supply of Herbal Medicines) Order 1977, SI 2130. However, in this Order herbal practitioners are not defined, and as there is currently no statutory regulation to ensure proper training, in fact the public is left at risk from any poorly trained practitioners that currently have no professional or regulatory oversight.

Herbal medicine practitioners have for many years voluntarily organised themselves into professional associations to ensure that their practice is safe for the public. In this time there have been very few reports of adverse effects by those using herbs and consulting a practitioner.

2. Question 2

Would this harm be lessened by statutory regulation? If so, how?

Statutory regulation would ensure that herbal practitioners and acupuncturists are carefully and thoroughly trained, with training subject to accreditation, evaluation and periodic review by independent educational and training professionals, and disciplinary oversight by a regulating body such as the Health Professions Council. The public has demonstrated its desire to use herbal medicines as an adjunctive to conventional health care, as evidenced in the Consultation itself. Thus, it is the Government's responsibility to ensure that the quality of these herbal medicines and the quality of the practitioner will be of a safe standard. The way to ensure this is to implement statutory regulation.

3. **Question 3**

What do you envisage would be the benefits to the public, to practitioners, and to businesses, associated with introducing statutory regulation?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

4. **Question 4**

What do you envisage would be the regulatory burden and financial costs, to the public, to practitioners, and to businesses, associated with introducing statutory regulation? Are these costs justified by the benefits and are they proportionate to the risks? If so, in what way?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

5. **Question 5**

If herbal and TCM practitioners are subject to statutory regulation, should the right to prepare and commission unlicensed herbal medicines be restricted to statutorily regulated practitioners?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

6. **Question 6**

If herbal and TCM practitioners are *not* statutorily regulated, how (if at all) should unlicensed herbal medicines prepared or commissioned by these practitioners be regulated?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

7. **Question 7**

What would be the effect on the public, practitioners and businesses if, in order to comply with the requirements of European medicines legislation, practitioners were unable to supply manufactured unlicensed herbal medicines commissioned from a third party, after 2011?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

We would add that the effects would be very, very significant. As stated previously, we believe the public would be put at greater risk because, wishing to continue to use herbal medicines, many are likely to source from parties outside the UK, EU and thus

any quality control in the products or the information given about the products and their use.

Our members would probably lose their livelihood. We currently estimate that our association uses in the region of £1,380,000.00 worth of herbal medicines annually.

The core of our practice is to prescribe the best combination of herbs for the particular individual who is consulting us. We rely on our third party suppliers for the majority of our medicines. Some members rely totally on these sources of herbs. We would be unable to continue to do this to the high standards we require in the interest of the client if we were unable to supply manufactured unlicensed herbal medicines commissioned from third parties, parties that we know and trust are making the medicines to a high standard.

This of course would have a knock-on effect for the manufacturers of our medicines and their employees. Our members currently use about 20 suppliers. Some of these are large, some are small firms. All have employees. Some also grow, harvest and process their own herbs as raw material meaning other staff are employed in this area. Their jobs would also be put at risk.

8. **Question 8**

How might the risk of harm to the public be reduced other than by statutory professional self-regulation? For example, by voluntary self-regulation underpinned by consumer protection legislation and by greater public awareness, by accreditation of voluntary registration bodies, or by a statutory or voluntary licensing regime?

We do not believe that risk of harm to the public can be reduced significantly other than by a statutory regulation scheme, for the reasons we have already mentioned. Only under statutory regulation can the public be assured that practitioners have sufficient oversight and regulation of their training and practice. Other schemes would leave gaps and a citizen would be more vulnerable in such circumstances.

9.

Question 9

What would you estimate would be the regulatory burden and financial costs, to the public, to practitioners, and to businesses, for the alternatives to statutory regulation suggested at Question 8?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

10. **Question 10**

What would you envisage would be the benefits to the public, to practitioners, and to businesses, for the alternatives to statutory regulation outlined at Question 8?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

11. **Question 11**

If you feel that not all three practitioner groups justify statutory regulation, which group(s) does/do not and please give your reasons why/why not?

We feel that all three practitioner groups fully justify statutory regulation primarily in the interest of public safety.

12. **Question 12**

Would it be helpful to the public for these practitioners to be regulated in a way which differentiates them from the regulatory regime for mainstream professions publicly perceived as having an evidence base of clinical effectiveness? If so, why? If not, why not?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

13. **Question 13**

Given the Government's commitment to reducing the overall burden of unnecessary statutory regulation, can you suggest which areas of healthcare practice present sufficiently low risk so that they could be regulated in a different, less burdensome way or de-regulated, if a decision is made to statutorily regulate acupuncturists, herbalists and traditional Chinese medicine practitioners ?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

14. **Question 14**

If there were to be statutory regulation, should the Health Professions Council (HPC) regulate all three professions? If not, which one(s) should the HPC not regulate?

We feel the HPC is best placed to regulate herbal and traditional medicine, TCM and acupuncture practice. Over the past 10 years or more, as practitioners we have worked with the Department of Health's own working groups in order to lay the ground work for regulation, the Government's stated intention back in 200-2001 after the House of Lord's Report on Complementary and Alternative Medicine in the UK. AS part of our preparatory work we have discussed and liased with the HPC to ensure our policies, procedures and standards of training, fitness to practice and knowledge base are commensurate with its own standards and requirements. Thus the transition to regulation by the HPC we envisage will be as straightforward and cost-effective as possible.

We feel that all three areas, herbal and traditional medicine, TCM and acupuncture should be subject to regulation by the HPC as they are all three engaging with the public in essential the same role, though with differing modalities of therapeutic intervention.

15. **Question 15**

If there were to be statutory regulation, should the Health Professions Council or the General Pharmaceutical Council/ Pharmaceutical Society of Northern Ireland regulate herbal medicine and traditional Chinese medicine practitioners?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

16. **Question 16**

If neither, who should and why?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

17. **Question 17**

a) Should acupuncture be subject to a different form of regulation from that for herbalism and traditional Chinese medicine? If so, what?

b) Can acupuncture be adequately regulated through local means, for example through Health and Safety legislation, Trading Standards legislation and Local Authority licensing?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

18. **Question 18**

a) Should the titles "acupuncturist", "herbalist" and "[traditional] Chinese medicine practitioner" be protected?

b) If your answer is "No", which ones do you consider should not be legally protected?

We agree with the recommendation of the Pittilo Report in regards to protection of title, and fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

19. **Question 19**

Should a new model of regulation be tested where it is the *functions* of acupuncture, herbal medicine and TCM that are protected, rather than the *titles* of acupuncturist, herbalist or Chinese medicine practitioner?

We fully endorse the answer and comments made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

20. **Question 20**

If statutory professional self-regulation is progressed, with a model of protection of title, do you agree with the proposals for "grandparenting" set out in the Pittilo report?

Yes, we agree with the proposals for "grandparenting" in the Pittilo. We feel this is fair to all.

21. **Question 21**

In the event of a decision that statutory or voluntary regulation is needed, do you agree that all practitioners should be able to achieve an English language IELTS score of 6.5 or above in order to register in the UK?

We feel strongly that clear communication, both understanding and speaking, is essential in a consultation or advice situation for the safety of the person seeking the advice or consultation.

22. **Question 22**

Could practitioners demonstrate compliance with regulatory requirements and communicate effectively with regulators, the public and other healthcare professionals if they do not achieve the standard of English language competence normally required for UK registration? What additional costs would occur for both practitioners and regulatory authorities in this case?

We do not feel they could. Further, we agree with the comments made on this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

23. **Question 23**

What would the impact be on the public, practitioners and businesses (financial and regulatory burden) if practitioners unable to achieve an English language IELTS score of 6.5 or above are unable to register in the UK?

We agree with the comments made on this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

24. **Question 24**

Are there any other matters you wish to draw to our attention?

We concur with the comments and advice made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

We concur with the comments and advice made to this question by the EHTPA in its Consultation Document response already submitted to the Department of Health.

We would add that we feel it would be wrong, even irresponsible of the Government and wasteful of taxpayer's money to forego this opportunity to bring statutory regulation to herbal and traditional medicine practice, TCM and acupuncture. In the current world of international internet buying, to give just one example, consumers will be more at risk if they cannot consult in person a qualified and properly regulated practitioner. The public has demonstrated that if wishes to use herbal medicines and acupuncture. Herbal medicines have a very good safety track record and herbal practitioners have demonstrated a willingness to ensure and maintain the highest standards of practice, ethics and conduct expected of all regulated healthcare professionals.

To go against the advice of previous working group reports and taking into account the data, evidence and recommendations collected about all the aspects of this issue, the Government would be missing the opportunity to put this sector on a sure health and economic footing that will meet the needs of today for all concerned. Statutory regulation is a significant step forward that will benefit the patient, the practitioner and healthcare as a whole.