

Briefing notes on the need for a statutory register for herbalists and practitioners of other Traditional Medicine Systems in the UK, London, December 2009

From Amarjeet-singh Bhamra, Committee "Saveherbalmedicine"

Unless herbalists are statutorily registered they will be unable to be designated 'authorised healthcare professionals' for the purposes of relevant European legislation'.¹

Without such designation the Medicines and Healthcare products Regulatory Agency (MHRA), who are dealing with regulation of herbal medicines, will be unable to apply the derogation in footnote 1 and herbalists will lose access to unlicensed herbal medicines in April 2011.

This will have catastrophic effects on the range and quality of the medicines that herbalists can offer to their patients, adversely impacting on consumers' freedom of choice. A statutory register will ensure that all herbalists so recognised, match up to agreed standards of education and training, undertake Continuing Professional Development, adhere to a strict Code of Ethics and Standards and are properly insured.

Background:

- 2000 The House of Lords' Select Committee on Science and Technology recommended that herbalists and acupuncturists be statutorily regulated
- 2001 the Government accepted the House of Lords' Select Committee proposal that herbalists and acupuncturists be statutorily regulated
- 2002 the Department of Health and the Prince of Wales's Foundation for Integrated Health jointly established two independent regulatory working groups to develop recommendations for the statutory regulation of herbal medicine and acupuncture. Both working groups published their reports in September 2003.
- 2004 The Department of Health considered and built on the working groups' recommendations and published a Public Consultation Document regarding the question of regulation of this sector. 98.5% respondents expressing support for a UK-wide system of statutory regulation for herbalists in order to ensure public protection and safety.
- 2006 The Department of Health launch the Steering Group on the Statutory Regulation of Practitioners of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK
- 2008 The Steering Group produced its report²
- 2009 The Department of Health publishes another Public Consultation

¹ *Article 5.1* Directive 2001/83/EC

1. A Member State may, in accordance with legislation in force and to fulfil special needs, exclude from the provisions of this Directive medicinal products supplied in response to a bona fide unsolicited order, formulated in accordance with the specifications of an authorised health-care professional and for use by an individual patient under his direct personal responsibility.

² Report to Ministers from The Department of Health Steering Group on the Statutory Regulation of Practitioners of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK May 2008

Current Status:

We appear to have come to the point that after:

- Ten years work
- Thousands of hours of time
- An untold amount of expense
- Four working parties,
- Their reports (including a House of Lords' Select Committee report),
- Two consultations,
- A number of specific MHRA proposals concerning relevant medicines law reform, and
- A call by the Health Professions Council to move to statutory regulation of this sector as soon as practicable

All of which were in favour of statutory regulation that the Department of Health is seriously considering NOT now regulating herbalists and practitioners of other traditional medicinal systems in the UK.

Key Considerations:

Clearly all the relevant work on the statutory register has been done by the Department of Health and the Professions. This is more than adequately summed up in the Report to Ministers from The Department of Health Steering Group on the Statutory Regulation of Practitioners of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK (May 2008).

The MHRA meanwhile, has been working on changes to Medicines Law.

Until now, a large number of herbal medicines manufactured by third parties have been available for prescription for individual patients by practitioners in this sector under Section 12(2) of the Medicines Act of 1968. However, Section 12(2) is to be effectively repealed once the THMPD becomes fully implemented in April 2011 after which these herbal products manufactured will no longer be available as the majority are not suitable for the licensing scheme

The MHRA have worked to allow the derogation under Article 5.1 of EU Directive 2001/83/EC to be applied to a statutorily regulated body of herbalists. They could then be designated 'authorised health-care professionals' and, due to their high level of training, be safely allowed to use unlicensed herbal medicines that were no longer available to the general public.

If the Department of Health fails to produce a statutory register for herbalists, this will significantly and adversely restrict the scope of herbal remedies currently available to the public who wish to consult herbal/traditional medicine practitioners.

This is clearly not in the public interests, nor in the interests of the herbalists, growers, suppliers, manufacturers, shops, students and patient groups who use these therapies. It restricts public right of choice and potentially exposes the public to risks associated with unregulated Internet supply of herbs and unscrupulous practitioners.

Many of our patients may choose to use herbal medicine as part of their cultural and religious beliefs. If the government fails to act to protect these medicine systems it will be failing to recognise the diversity within our society.

Recommendations:

If all herbalists are regulated there will be:

- Professional practitioners with an agreed level of training - a Degree in Herbal Medicine
- Regulated by a professional body and recognisable to the general public
- Undergo Continuous Professional Development
- Adhere to a code of ethics and be insured to practice

- Be more accessible to GP's and other healthcare practitioners (integrated healthcare)
- Have access to a wide range of herbal medicines, of controlled quality

If herbalists are NOT regulated as is the case now:

- Anyone will be allowed to practice and call themselves a medical herbalist - even if they are not qualified!
- Have widely varying standards of professionalism and qualifications
- Have little ability to hold dialogue with G.P.s or other healthcare practitioners
- Not be able to supply a full range of herbal medicines to patients

Response from Practitioners of Herbal Medicine from all traditions to: - "A joint consultation on the Report to Ministers from the DH Steering Group on the Statutory Regulation of Practitioners of Acupuncture, Herbal Medicine, Traditional Chinese Medicine and Other Traditional Medicine Systems Practised in the UK" was held at the House of Lords on Thursday 12th November 2009.

The assembly of the UK herbal community gathered at the House of Lords, Room No 3, unanimously asks Members of Parliament to call upon the Department of Health to act now to bring forward a statutory register that would ensure herbalists are able to continue to practice, uninterrupted, after April 2011, for the benefit of their patients, with access to the full range of traditional medicines they are currently able to have in their dispensary.

Before we get to the resolution there are a couple of aspects which have yet to be raised, but bearing in mind the fight we have on our hands, because it is a fight, I think that those aspects which are not so much practical but moral in nature, should be voiced in this particular setting. Legislation is already on the books, and that legislation is coming thru, and that legislation has no interest in our qualifications, our background or our associations; it's already in place, and there is something intensely immoral in being judged inadequate or guilty prior to investigation.

William Paley in 1794, said that *"There is a principle which is a bar against all information, which is proof against all argument, and which cannot fail to keep a man in everlasting ignorance. This principle is, contempt prior to examination"*. We are on the receiving end of contempt prior to investigation, and I think that as a philosopher in this setting, it's probably my responsibility to add a little colour and to also introduce the gravity of the situation as well, in terms of the fight we have on our hands. We are facing a civil service, a nameless foe and it is the hardest foe, to fight against. Some 65 years ago, a similar act was passed by a government and in response to that act, a diminutive Indian, not unlike our Amarjeet Bhamra, stood up and addressed a gathering who were affected by the legislation and his opening words were " Let me make it clear to you as to what this Act means....what this legislation really means... The impact of this legislation means that your wives and married daughters are whores and prostitutes, and you and your sons are bastards ". That speaker was Mohandas Gandhi, and the Government was the racist South African Govt. He spoke in response to legislation which was specifically focussed against "foreigners" and the purpose of this legislation was to make non-legal any marriage other than Christian marriages. And these were the words that he spoke and it strikes me that we are on the receiving end of very similar legislation.

Our particular knowledge is the "foreigner" in this case and the establishment has rendered it "illegal". If this act comes into force, the words which I would share with you are: "All of us are charlatans and drug-dealers, our sciences are quackery, and

our study and certificates are of no value whatsoever, and all the years of practical experience and the centuries of empirical evidence and the testimonies of your patients mean nothing whatsoever". This is the reality of what we are facing."

Confucius once said, "A man has to wait with mouth open for long time before roast duck fly in" and although the comments of our political supporters are very positive and encouraging and supportive, in directing us to lobby our MP's, I think we need to possibly take the initiative and perhaps be a little more creative and imaginative. We need to have a focal group who we ourselves create and let's perhaps find out who these MP's and civil servants are who will be voting on this legislation, let's publicise their involvement and decision's both past and future in this regard. Let's find some way of exerting public pressure specifically and directly upon them. We have so much talent and ability in this room, and so many avenues through which to express this but it is up to us to find sufficient suitable people to commit these resources and to establish ONE focal point through which to channel all of our efforts so that we can meet this challenge.

Divided we are powerless. Over 100,000 pieces of legislation have come from EU in the last ten years, Tony Blair whilst he was Prime Minister, declared that the British Government needed to have closer ties to better support the Pharmaceuticals Industry. £28 billion US dollars have been spent by the Pharma Industry in marketing budgets in the UK. We really do have a fight on our hands. But being nice holistic people we always look towards fixing our own house first, and so we fall prey to perpetually defending ourselves against undue criticism. We always want to make our mountains of evidence known, but I would suggest that our opposition is not interested in our evidence. There are mountains of undeniable, unchallengeable evidence out there supporting our cause but they are not interested in evidence. 40,000 deaths directly from ADR's (adverse drug reactions) occurred in the United States last year, that equates to one jumbo jet crashing every week killing all passengers, do we have any evidence of those sorts of statistics in our industry, I don't think so, so it's not about the evidence. We don't need to be on the back foot and we don't need to justify our existence to the opposition. The evidence is already out there if there was someone truly interested in looking.

So the technology is there, the actions are clear, but it's up to us to find and establish one focal point to co-ordinate all of our efforts, and I propose that we pool our resources and efforts, and individually and as representatives of our various organisations, support a resolution demanding the recognition that we deserve for all of our past efforts toward the well being of the citizens of this country, spanning many years. I would like to propose that we nominate and empower Amarjeet Bhamra as this focal point, the person who has brought us altogether. This event has happened here at the HOL as a result of one person deciding to act and that person is Amarjeet, and there is every reason for him to establish this focal group.

The resolution that I would submit to the gathering has a moral dimension as well as well as a very powerful human rights aspect and I feel that our human rights need to be brought to the forefront of this whole fight.

Statement and Resolution – 12th November 2009:

A meeting was held at the House of Lords on Thursday, 12 November 2009 from 6-8 pm, kindly hosted by Lord King of West Bromwich, and chaired by Alan Keen MP (Lab) Feltham, together with David Tredinnick MP (Con) for Bosworth.

The purpose of the meeting was to discuss and safeguard the continuity and future of herbal medicine's from all traditions in the UK, and Europe having regard to the

expected regulation from the EU, whereby Herbal Medicines (Ayurveda, Chinese Medicine, Kampo, Traditional Tibetan Medicine, Unani Tibb and Western Herbal Medicine) may be effectively outlawed in the UK unless statutory regulation is introduced by the UK Government before the EU law becomes effective in April 2011.

Resolution presented by Satish Sharma to the meeting at the House of Lords on the 12th November 2009: -

This meeting resolves that: -

A citizen's right to choose a preferred system of medicine is a Fundamental Human Right.

That a democratically elected Government has a moral duty to protect this Fundamental Human Right for each of its citizens, irrespective of background, race, colour, creed, culture, religion or ethnicity by protecting the freedom to choose (or not choose) the healthcare options they wish for themselves and their families.

That Government should not, through exercising (or failing to exercise) its power to enact legislation, deny its citizens access to medicines and medical practitioners of their choice, nor, by denying them their freedom of choice, force them to accept treatments that do not accord with their own personal knowledge, beliefs and culture.

Her Majesty's Government be called upon to abide by its expressed commitment to introduce a statutory register for Herbalists, Acupuncturists and Practitioners of other traditional medicine systems in the UK. To do this without further delay, in order to protect the access of patients and practitioners, from all traditions, to all of their traditional Medicines and remedies after the full implementation of the medicines (Traditional Herbal Medicinal Products for Human Use) Regulations (2005), in April 2011.

The meeting further resolved to direct Amarjeet S Bhamra, the Convener of this Meeting, to organise a group and co-ordinate a campaign to ensure that the above resolution is brought to the attention of Her Majesty's Government, and to as many affected parties as possible.

The Persons and Organisations present pledged their support via a show of hands and the above resolution was passed unanimously.

Resolution supported and passed by: -

Dr Chang-Tze Hu PhD (Director) -
The Taipei Representative Office in the UK

Sunita Poddar
Trustee - Patanjali Yog Peet Trust UK

Jane Gray
President - National Institute of Medical Herbalists (NIMH)

Anne Varley
Vice President - NIMH

Andreas Syrimis
Director of Admissions - NIMH

Beverley Martin -
Chair to Trustees - Inst for Complementary & Natural Medicine (ICNM)

Clive Teal
Registrar – ICNM

Yvonne Wilcox

Chairman – ICNM

Alex Laird -
College of Practitioners of Phytotherapy

Dr Peter Davies, Dr Julie Whitehouse and Felicity Moir -
University of Westminster - School of Life Sciences

John Weeks -
Unified Register of Herbal Practitioners

Dr Nelson Brunton -
President - Association of Natural Medicine (UK)

Margaret Ali and Joyce Suda -
Directors - Universal Peace Federation

Tony Booker -
President - Register of Chinese Herbal Medicine

Brion Sweeny
Acting President - Traditional Tibetan Medicine

Dr Kaicun Zhao -
Programme leader Chienese Herbal Medicine – Middlesex University

Dr Lionel R Milgrom -
Program for Advanced Homeopathic Studies

Dr Debbie Shaw -
Guys and St Thomas's Trust, Chinese Medicine Advice Centre

Christine Leon
**Manager - Chinese Medicinal Plant Authentication Centre,
Royal Botanic Gardens, Kew**

Frances Turner -
**Course Director CHM – London College of Traditional Acupuncture and
Oriental Medicine**

Anoop Kaur -
General Secretary - British Association of Accredited Ayurvedic Practitioners

Sascha Kriese -
Vice President - Ayurvedic Practitioners Association

Sandip Garg - President and David Whitley - Gen Secretary -
Ayurvedic Trade Association

Yogi Dr Amrit Raj and Dr Amrita Raj,
Publishers - Arogyadham Magazine India

Benny Thomas -
Publisher - Ayurveda+Health Tourism Magazine India

Tarri Sian -
Director – NuSoundRadio London

Kishore Jain -
Kohinoor Radio Leicester

Anil Bhanot FCA -
Council of Ethnic Minority and Voluntary Sector Organizations and Hindu Council UK

Dr Jane Buckle, Dr. Aishwarya Iyer, Dr Mahesh Patel, Dr S Patel,
Dr Muhammed Salih, Dr Raghu Hari, A S Hundal, Mr & Mrs Vashisht,
Naseer Khan, Nina Heaton, Gerard Sullivan, Vanessa Edwards,
Sylvia Ferguson, Luke McDonald, Aman-kaur Bhamra, Mark Preston, George He,
Alice Lyon, Jeremy Langshaw, Sujata Jolly, Ewan Urquhart, Caroline Hopkins,
Kamlesh Patel, Frances Turner, Muneet Dohil, Anand Chaudhry,
Shreans K Jain, Victoria Sprinz, S K Pathak, Melvyn Eyres, Caroline Drew, Timothy
Stafford, Abigail Green, Thomas Matthew, Anila Khaliq,
Ravi Bhanot, Sushma Bhanot, Zaheeda Khaliq, Satish Sharma, and
Amarjeet S Bhamra.

The following had sent written messages for support which were circulated in the meeting.

Linda Leung -
The Princes Foundation for Integrated Health

Dr Deepika Gunawant -
The Government of India – Ministry of Health (AYUSH)

Nora Laubstein
President - Association of Natural Medicine in Europe (ANME)

Please visit www.saveherbalmedicine.com to support an online petition for statutory regulation for herbal medicine.

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