



NHAA SUBMISSION TO PARLIAMENTARY INQUIRY

The Promotion of False or Misleading Health-Related Information or Practices

National Herbalists Association of Australia

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Founded in 1920

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Preamble

The NHAA is a peak professional association representing appropriately qualified Western herbalists and naturopaths using herbal medicines as their primary treatment modality. It is the oldest professional association of complementary therapists, founded in 1920 with a current full membership of approximately 850 (our total membership is around 1200 including student and companion members). This represents approximately one third of practicing Herbalists and Naturopaths in Australia. The NHAA is the only national professional association specifically concerned with the practice and education of Western herbal medicine (WHM) in Australia. Members are required to adhere to the Association's Constitution and the Code of Ethics (including standards of practice). Details of the Constitution and Code of Ethics and Standards of Practice of the Association are detailed in Appendix 1.

The primary aims of the NHAA are to:

- Promote, protect and encourage the study, practice and knowledge of medical herbalism.
- Disseminate such knowledge by talks, seminars and publications.
- Encourage the highest ideals of professional and ethical standards.
- Promote herbal medicine within the community as a safe and effective treatment option.

The vision held by the NHAA for the professional practice of herbal medicine is summarised in the following statements.

- Practitioners and the practice of herbal and naturopathic medicine are fully integrated into the primary healthcare system in Australia.
- The NHAA is recognised as the peak body for herbal and naturopathic medicine.
- Herbal and naturopathic medicine is accessible to all.
- The integrity of the profession of Western herbal medicine and naturopathy is maintained.
- The standards and quality of education of the profession continue to be promoted.
- Career opportunities and research pathways for herbalists and naturopaths are created.
- The integration of traditional medicine and evolving science is continued.

The NHAA is governed by a voluntary Board of Directors. Full members of the Association elect the Board of Directors, with each board member serving a two-year term after which they may stand for re-election.

Full members of the NHAA have completed training in Western Herbal and Nutritional medicine sufficient to meet the educational standards as determined by the Examiners of the Board. These standards are set in consultation with tertiary educational institutions (standards in line with but exceeding the requirements of the NSW Health Training Package), and all members must adhere to a comprehensive Code of Ethics and Continuing Professional Education (CPE) program.



Membership consists of practitioners of Western herbal medicine who choose to use herbal medicine as their major modality of practice including Naturopaths, GPs, Pharmacists and Registered Nurses.

The NHAA publishes the quarterly *Australian Journal of Herbal Medicine*, a subscription peer reviewed journal covering all aspects of Western herbal medicine, and holds annual seminars on herbal medicine throughout Australia. An *International Conference on Herbal Medicine* has been held every 2-3 years since 1992.

Since its inception, the NHAA and its members have been at the forefront of herbal medicine and have been influential in areas ranging from education and practice standards, to government regulation and industry standards. The NHAA has a strong commitment to achieving high educational standards in herbal medicine practice and supports the regulation of the profession.

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Executive Summary

- The NHAA broadly support the goals demonstrated by the terms of reference of the Inquiry into the Promotion of False or Misleading Health-Related Information or Practices, of ensuring public safety.
- We agree that wilful or malicious publications or advice that misleads the public as to benefits or harm of health-related interventions by trained and untrained health professionals should be identified and suitably penalised, with the caveat that personal and cultural beliefs be respected as the basic human right of self-determination.
- Preventative health strategies that have resulted from ‘gold standard’ peer reviewed evidence should be upheld as best practice, but within the context that some preventative health strategies have poor or confused evidence at best for their use, for example, breast-screening mammography (Gøtzsche & Jørgensen 2013).
- The publication and / or dissemination of misleading information related to medical treatments and cures should be discouraged, but this should in no way stymie legitimate debate about the appropriateness and safety of medical treatments, as best available evidence is constantly evolving, and there have been many instances of conventional medicines having been shown to do harm.
- The NHAA are concerned about the statement within the terms of reference “The promotion of health-related activities and/or provision of treatment that departs from accepted medical practice which may be harmful to individual or public health”. The statement references too many poorly defined terms and assumptions needing clearer definition, and to be more inclusive of personal belief systems and cultural practice.
- The NHAA support the HCCC unregulated health professions code of conduct, but believe better safeguards through the statutory registration of Western herbalists and naturopaths as recommended by The La Trobe Report (Lin 2005) remains the optimal solution for public protection from unqualified persons conducting and promoting health related activities.
- The current effectiveness of the HCCC in enforcing and reporting actions against those in breach of the Code of practice cannot be determined by our organisation beyond what is reported by the website and to AHMAC.

Discussion

General Comments

There are a multitude of websites, blogs and publications that supply advice on healthy eating, diets, food as medicine, herbs and supplements, exercise regimes, and pseudo-medical devices for self care of acute and chronic ailments. There is even advice for prescriptions drugs for various conditions, much of it written by persons with little or no training. These information platforms are too numerous to regulate with any efficiency, which in all likelihood means the only manner in which action might be taken is if a complaint is made by a consumer, likely due to some real or perceived harm. This is basically the status quo. Some examination of why there is so much health related information available might be useful. People are perhaps feeding a growing health literacy that is developing in the community at

large. The constant bombardment via various media platforms of health messages related to lifestyle mediated diseases, and research reports of beneficial interventions, no doubt contribute to this. So it is perhaps unsurprising that a trend for self care has developed. One might also question if this is in part due to some failing of the public health system in terms of GP availability, surgical waiting lists, and poor management of some more intransigent chronic illnesses. This is not all bad, one hopes that growing health literacy within the population might lead to a trend in better overall health. It has, however led to the explosion of health information as outlined above, and any attempt to provide regulation on that information needs to be finely balanced with possible benefits and the scope of what such regulation might entail.

The terms of reference under discussion are dependent on the definitions of who might be a recognised health practitioner and what organisations are recognised health service providers. As the first relates to our members we will focus on attributes that relate to recognised health practitioners.

Recognised health providers;

- Are educated within formally recognised training/ education institutions that hold government accreditation
 - VET sector
 - Higher Education Sector
- They can demonstrate attributes of professional standing
 - Belong to professional associations
 - Maintain currency through continuing professional development
 - May have paths to post-graduate education
 - Have mandatory training requirements
 - Are recognised and covered by insurance policies related to practice
- Undertake research in their field to support evidence-based practice

Any departure from the above definition would require stringent debate.

Response to Terms of Reference

The publication and/or dissemination of false or misleading health-related information that may cause general community mistrust of, or anxiety toward, accepted medical practice

While the NHAA agrees with the intent of this statement, we also believe that to regulate the promulgation of such information is likely to be impossible with the internet now the greatest source of health information from both legitimate and less legitimate sources. Any such regulation is also likely to catch some unsuspected culprits, such as those perceived as legitimate health organisations. For example, in the wake of findings from post-marketing research (e.g. Cox II inhibitors, antidepressants and Class I anti-arrhythmics) there has recently been much debate over the bias of research reporting funded by large drug companies (McGauran et al. 2010) and a call for public access to the full unedited research

data. Such reports are likely to reduce public confidence in accepted medical practice, and might even be classified as misleading health related information.

It also seems likely that any proposed regulation may also impact on free speech entitlements of Australians with the onus on the regulatory body to prove harm has been done as a result of any written or spoken word (DIBP 2013). This could prove very expensive in the long term.

The NHAA believe a better response might be to continue to educate the Australian public as to where to find, and how to identify quality health information. This has the added benefit of increasing the public's health literacy overall and is likely to be less costly.

The publication and/or dissemination of information that encourages individuals or the public to unsafely refuse preventative health measures, medical treatments, or cures

The above arguments apply to this statement also, but additionally cultural and religious beliefs need to be considered. Health and dietary practices may be promoted by both religious and ethnic groups which are contrary to Australian health practices, with any regulation of such, further marginalising immigrant populations within the community (e.g. Circumcision).

The NHAA also believe the statement is too broad, and could theoretically cover dietary information published including food advertising. For example, it is accepted that certain foods contribute to health problems, and health prevention is related to dietary choices. This could place certain food companies in breach of any regulation by advertising e.g. fatty foods or sugar dense foods.

It also needs to be considered that best practice in prevention and treatment has constantly moving goal posts with periods of change based confusion. For example, breast screening via mammography currently has several Cochrane systematic reviews implying that benefits of screening may not outbalance the risks (Gøtzsche & Jørgensen 2013), while practice in Australia is still to recommend breast screening in certain age groups. Similarly benefits of PSA screening for prostatic cancer are poor, but men are still being advised "to get a little prick" to prevent prostate cancer.

The NHAA also believe that the challenge and debate of research around current health practice is a part of evidence-based medicine and would hope that any proposed regulation or monitoring activity would recognise this premise, and identify legitimate questioning versus malicious misinformation or misleading argument.

The promotion of health-related activities and/or provision of treatment that departs from accepted medical practice which may be harmful to individual or public health

The NHAA is concerned about the lack of a clearer definition of what constitutes "accepted medical practice" and its application to this statement. There are many herbal medicines and

dietary supplements that have good evidence of efficacy but would not be considered “accepted medical practice”. For example, *Hypericum perforatum* for mild-moderate depression, *Cratageus spp.* for heart failure, and glucosamine sulphate for osteoarthritis (Braun and Cohen 2010), just to name a few. Therefore herbalists and naturopaths who prescribe evidence-based medicine may be seen to be in breach of any regulation associated with the above statement. A clearer definition of what constitutes being ‘harmful to an individual’ also needs clarification, as idiosyncratic reactions and mild side effects such as nausea, cannot be ruled out as a possibility of using herbs and dietary supplements, despite being rare. This would be true of any medicine, including over the counter medicines such as mild analgesics and antihistamines. A clearer definition might be to replace ‘treatment that departs from accepted medical practice’ with ‘treatment that lacks evidence of efficacy’.

The adequacy of the powers of the Health Care Complaints Commission to investigate such organisations or individuals

The NHAA believe the powers of the HCCC to investigate possible organisations or individuals is limited by the sheer scope of content/ individuals/ organisations to be monitored and poorly defined professional titles and oversight of unregulated professions such as herbalists and naturopaths. The NHAA have long sought statutory regulation of herbalists and naturopaths to address some of these issues. The La Trobe report (Lin et al 2005) advised that herbalists and naturopaths met the 6 AHMAC criteria for registration, and also concluded protection of title would be in the public interest by separating those providing advice in the field of complementary and alternative medicine without the requisite training and experience, from those who do hold appropriate qualifications. The full assessment of this recommendation was provided in the NHAA response to NSW unregulated practitioner’s code of conduct report (2008), and can be found in appendix 3. Consideration of our professions for registration was delayed by the formation of the national registration body AHPRA, but in the meantime concerned parties have developed the Australian Register of Naturopaths and Herbalists (ARONAH), modelled on AHPRA. We hope that these professions will be considered in the 3rd tier of the process outlined by AHPRA, considering currently unregistered professions. This in turn, will reduce HCCC workload in the oversight of unregulated health professions and provide clearer guidance of those qualified to offer health advice and interventions.

The capacity, appropriateness, and effectiveness of the Health Care Complaints Commission to take enforcement action against such organisations or individuals

The current effectiveness of the HCCC in enforcing and reporting actions against those in breach of the code of practice cannot be determined by our organisation beyond what is reported by the website and to AHMAC. As mentioned throughout this response, we believe the scope of what is being proposed is beyond the HCCC, or indeed any regulatory body. However the task could be made easier by regulating suitable professionals and making clearer to the public, individuals and organisations suitable to provide health related advice and interventions.



References

Baxter, J. (2008) Response to NSW unregulated practitioner code of conduct. NHAA

Lin V et al. 2005. The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine. School of Public Health, La Trobe University, Bundoora. Available at www.health.vic.gov.au/workforce/pracreg/naturopathy

Natalie McGauran¹, Beate Wieseler, Julia Kreis, Yvonne-Beatrice Schüler, Heike Kölsch and Thomas Kaiser (2010) Reporting bias in medical research - a narrative review. *Trials Journal*. <http://www.trialsjournal.com/content/11/1/37> (accessed 9/12/13)

<http://www.immi.gov.au/living-in-australia/choose-australia/about-australia/five-freedoms.htm>

List of Attachments

1. Constitution & Code of Ethics / Standards of Practice of NHAA
2. NHAA Response: NSW Unregulated Practitioners Code of Conduct