



**Submission to
New Zealand Ministry of Health
On the
Proposal that Herbal Medicine
become a regulated profession under the
Health Practitioners Competence Assurance Act 2003**

**Prepared by
The National Herbalists Association of Australia**

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Executive Summary

- This briefing document has been prepared by the National Herbalists Association of Australia (NHAA), which has represented the interests of professional Western Herbalists Medicine (WHM) practitioners and Naturopaths in Australia since 1920.
- The NHAA supports the position of the New Zealand Association of Medical Herbalists (NZAMH) that Herbal Medicine be approved as an additional profession for inclusion in the scope of the Health Practitioners Competence Assurance Act 2003 (HPCA Act).
- The NHAA considers that the existing mechanisms do not offer consumers the best protection from the unscrupulous misuse of the titles, Western Herbal Medicine Practitioner and Naturopath or from inadequately trained practitioners.
- The NHAA believes that regulation of the professions offers the public the best protection from the aforementioned issues.
- The Australian Government's Expert Committee on Complementary Medicines in the Health System supports this position.
- The La Trobe University report to the Victorian Government, 'The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine' also recommends statutory regulation of these professions.



Introduction and Background to the National Herbalists Association of Australia

The NHAA is the key 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.

The membership consists of mainly practitioners of Western Herbal Medicine including Naturopaths who choose to use herbal medicine as their major modality of practise.

Our current membership is 1538 of which 931 are full members, with the remainder including student and companion members. This represents approximately one third of all practising 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).

The primary aims of the NHAA include 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 Full Membership of the Association elects the Board of Directors of the NHAA, with each member serving a two-year voluntary (unpaid) term after which they may stand for re-election.

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

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 regulation of the profession.

The Associations, Membership requirements, Code of Ethics and conduct and, educational requirements including our course accreditation guidelines can be found on our web site at www.nhaa.org.au .



Discussion Questions

1 Definition of Health Services – Question 1

- 1. Is Herbal Medicine a health service, as defined by the HPCA Act? NB: The Act defines this as ‘a service provided for the purpose of assessing, improving, protecting, or managing the physical or mental health of individuals or groups of individuals’.**

Herbal medicine practitioners provide health care to members of the public on an ongoing basis more often as a primary contact health practitioner than not. They are required to assess the client’s condition, prescribe appropriate medicines and refer to other health professionals if deemed necessary. We believe this falls within the scope of the definition of a health service.

2 Potential for Risk– Questions 2-5

- 2 Is there a risk of harm to the public from the practice of Herbal Medicine?**
- 3 If so, what is the nature, frequency and severity of the potential risk to the public? What is the likelihood of the risk occurring? (In addressing the risk of harm, are the risks associated with the practice of the proposed profession, as distinct from risks inherent in the products that the profession may inherently use?)**

The La Trobe report¹ identified two areas of risk for the public in regards to the practice of herbal medicine and naturopathy. First is clinical judgement of the practitioner including acts of omission such as misdiagnosis, failure to refer and failure to explain precautions. Acts of commission also present a risk in that a poorly trained practitioner may withdraw treatment or prescribe incorrectly. Second to this are the risks associated with the consumption of herbal and nutritional products. These risks are associated with interactions between supplements and herbs with pharmaceutical drugs or overdose (predictable toxicity) or allergies and idiosyncratic reactions (unpredictable toxicity). The final risks lies in the area of correct identification, substitutions and adulteration of herbal materials.

The NHAA and Federation of Natural and Traditional Therapies (FNTT) jointly commissioned a workforce survey² as part of the GST enquiry in 2003.

This workforce study identified a significant number of adverse reactions from the ingestion of herbal medicine prescribed by WHM practitioners and Naturopaths. The number of adverse reactions was similar to that reported for Traditional Chinese Medicine (TCM) as reported in Towards a Safer Choice³.

In addition there is a risk involved in our role as primary care practitioners. There have been two deaths linked to naturopathic practice, which have been investigated by the



coroner in recent years⁴. In both these cases the practitioner concerned was not a member of any of the associations and neither were suitably qualified to practice as naturopaths.

More recently there is an allegation of an unqualified practitioner offering treatments for cancer patients. It has been reported in the press that this individual forged documents related to his training to gain membership of one association to add credibility to his claims of cure.⁵

Therefore regulation is warranted based on:

- adverse event associated with herbal and nutritional medicines
- potential toxicity of some herbal medicines
- potential for interactions between herbal medicines and pharmaceutical drugs
- acts in practice that can be injurious to the public
- acts of malpractice and fraud resulting in complaints

4 If there is no risk of harm, is it otherwise in the public interest that the profession of Herbal Medicine be regulated?

Refer to answer to questions 2 & 3.

3 Standards – Questions 5

5 Are practising Medical Herbalists generally agreed on the standards that Medical Herbalists are expected to meet?

As an unregulated professions, herbalists and naturopaths have no single body to set standards for the professions. Generally it is the associations to which a practitioner belongs that set the standards for practice.

The La Trobe report⁶ identified fifteen organizations in Australia purporting to represent the professions. This multiplicity associations leads to a wide variation in standards and creates a difficulty with disciplinary matters. Privacy legislation prevents the sharing of disciplinary matters between associations.

Should a member of an association have their membership revoked because of a disciplinary matter, there is nothing to stop them from joining another association and continuing to practise.



4 Education - Questions 6-7

- 6 Are practising Medical Herbalists generally agreed on the competencies for scopes of practice for Herbal Medicine?**
- 7. Are Medical Herbalists generally agreed on the qualifications needed to practise the health services that they provide?**

In Australia there is a generally accepted Training Package⁷ that has been adopted by most states and territories as the guideline for the education of naturopaths and herbalists. The Vocational Educational and Training Boards of the states and territories administer this standard. Most training is conducted in private training institutions, the training package and its application is open to interpretation.

The workplace survey⁸ commissioned by the NHAA and FNTP revealed that the length of education of herbalists and naturopaths varied significantly from six months to six years with an average length of 3.1 years. Whilst the education of herbalists and naturopaths is relatively standardised, there are instances where training is inadequate and this puts the public at risk from poorly trained practitioners.

The NHAA has set in place a course accreditation system based on, but with a higher standard than, this training package. The NHAA system sets a standard that we believe should be the minimum requirement for herbal and naturopathic education for acceptance as a practitioner and full member of the association. The NHAA notes that many New Zealand colleges have had their courses accredited by the NHAA.

The NHAA believes the discrepancies in the educational standards of herbalists and naturopaths can best be addressed by regulating the professions. This will ensure a standard commiserate with the scope of practise of herbalists and naturopaths.

Given that most herbalists and naturopaths act in the capacity of primary contact health professional, the NHAA believes that the educational standard for a regulated profession should be a Bachelor Degree in Health Sciences in Herbal, Naturopathic or Complementary Medicine.

5 Activities – Question 8

- 8. What is the nature of the activities undertaken by Medical Herbalists?**

Medical Herbalists cover a wide variety of activities in the course of practise, which can be categorised into two broad areas, consultation and dispensing.

Consultation

Increasingly Medical Herbalists are acting in the role of a primary contact health care provider. Clients are electing to see a herbalist in preference to an orthodox medical practitioner.



During a consultation with a Medical Herbalist, the herbalist will assess the physical, mental and emotional state of the client to ascertain the nature of the presenting illness or condition including the underlying cause where this can be determined.

Based on this assessment the practitioner will choose a course of action that may include any one of, or combination the following.

- ✓ Prescribe herbal medicines to treat the disease state
- ✓ Prescribe dietary modifications to promote good health
- ✓ Suggest lifestyle modification to support healing and good health
- ✓ Suggest other therapies that may be helpful
- ✓ Refer to a Medical Practitioner for a more complete assessment.

Prescription

Prescription involves selection of appropriate herbal medicines, combining these medicines into a formula, ascribing a dosage regime and explaining to the client the correct way to use the medicine.

This requires the herbalist to have a broad knowledge in many areas including:

- ✓ Herbal medicines and their application
- ✓ Appropriate dosage for each client
- ✓ Interactions of herbal medicines with each other
- ✓ Potential interactions with pharmaceutical medications the client may be using
- ✓ The ability to communicate instructions clearly

6 Regulation and Registration in Other Jurisdictions – Question 9

9. Is the profession regulated overseas, and what risks, if any, have been identified in overseas experience or studies?

New Zealand

It is noted that a ministerial advisory committee supported recommendations for regulation of complementary and alternate health practitioners and this was to be achieved under a single national act.⁹

Australia

At present the only jurisdiction within the Australian Commonwealth to regulate TCM or any other form of traditional medicine is the State of Victoria. However, The Australian Government's Expert Committee Report on Complementary Medicines in the Health System¹⁰ recommended the regulation of complementary practitioners.

Victoria

The Chinese Medicine Registration Act 2000¹¹ (as amended) provided the framework for the formation and operation of the Chinese Medicine Registration Board in Victoria. The aim of this act, as stated in Part 1 of the act is to:

- “(a) protect the public by providing for the registration of practitioners of Chinese medicine and dispensers of Chinese herbs and investigations



into the professional conduct and fitness to practise of registered practitioners of Chinese medicine and dispensers of Chinese herbs; and

- (b) regulate the advertising of Chinese medicine and Chinese herbal dispensing services; and
- (c) establish the Chinese Medicine Registration Board of Victoria and the Chinese Medicine Registration Board Fund; and
- (d) amend the **Drugs, Poisons and Controlled Substances Act 1981**; and
- (e) make amendments to other Acts regulating health practitioners; and
- (f) provide for other related matters.”

The NHAA believes this Act could be used as a template for the formation of a registration board for TCM, Western Herbal Medicine and Naturopathy, allowing that it is manifestly unfair to register TCM practitioners and not the practitioners of Western Herbal Medicine or Naturopathy given that similar issues of practice and access to herbs listed on the schedule of poisons exist across all modalities.

The Victorian Government also sponsored the La Trobe University Report: *The Regulatory Requirements of Naturopathy and Western Herbal Medicine* with a view to regulating these professions in a similar manner to TCM practitioners.

The NHAA believes that this report is being viewed by each state and territory in light of a Productivity Commission recommendation that regulated professions be administered by a single body¹¹. A sub-committee of the Australian Health Ministers Council is working on this project with only the current professions registered in each state or territory being considered. The NHAA will be making representation to this committee to have Naturopaths and Medical Herbalist included in this registration process.

Western Australia

The Western Australian Department of Health has released a discussion paper entitled Regulation of Practitioners of Chinese Medicine in West Australia asking for submissions from interested parties by 4 September 2005. From the discussion within the paper it appears that this government is considering statutory regulation of TCM.¹²

ACT, Northern Territory, Queensland and South Australia

There are no known plans in any of these jurisdictions to regulate complementary therapies.¹³

United Kingdom

The UK Department of Health has released a paper: Regulation of herbal medicine and acupuncture – Proposals for statutory regulation, after the UK



Government endorsed a recommendation of the House of Lords Select Committee on Science and Technology to regulate complementary therapies.¹⁴

United States

The White House Commission on Complementary and Alternate Medicine Policy Final Report urged the states to consider regulatory structures for complementary and alternate medicine (CAM) after recommending public accountability and quality of care issues for CAM practitioners be addressed.¹⁵

Singapore

In Singapore TCM practitioners are regulated under the Traditional Chinese Medicine (TCM) Act and are required to meet the standards set by the local TCM Practitioners Board before practising.¹⁶

China

The state regulates both TCM and Western Medicine promoting equality in both streams of medicine with both being practiced side by side.¹⁷

7 Qualifications – Question 10

10. Identify what qualifications are generally held by members of the profession and the degree of uniformity in qualifications across members?

The qualifications held by members of the profession are generally a diploma or advanced diploma. Until recently, private colleges falling within the vocational education training area have conducted most education in this field. More recently Australian Universities are offering bridging courses to degree status and some are offering undergraduate courses in naturopathy. It is noted some New Zealand colleges have partnerships with Australian Universities to confer degree status on their natural therapies courses.

Given most Herbalists and Naturopaths act in the capacity of primary contact health professional, the NHAA believes that the educational standard for a regulated profession should be a Bachelor Degree in Health Sciences in Herbal, Naturopathic or Complementary Medicine. It would be necessary to include a ‘grandparenting’ provision in any regulation of the profession to allow those practising to make an appropriate transition. The provisions of the Victorian Chinese Medicine Registration Act¹⁸ could be used as a template for these provisions.

8 Position of the NHAA in regard to Medical Herbalists – Question 11

11. Does your organization accord any standing or status to the profession of Herbal Medicine or to practitioners who practise as Medical Herbalists?

The NHAA recognises Medical Herbalists and Naturopaths who have completed a course accredited by the NHAA or who have supplied evidence that they have completed



training equivalent to the standard of the accredited courses. This recognition allows members to call themselves Medical Herbalist accredited by the NHAA.

Full membership of the NHAA allows a practitioner to obtain Professional Indemnity Insurance cover through several insurance providers. Membership also allows clients of full members to make claims on the cost of consultations through private health funds that cover natural therapies.

11 Summary

The NHAA supports the position of the New Zealand Association of Medical Herbalists (NZAMH) that Herbal Medicine be approved as an additional profession for inclusion in the scope of the Health Practitioners Competence Assurance Act 2003 (HPCA Act).

The NHAA has argued over many years for statutory registration of title for Western Herbalists and Naturopaths. Our argument is based on the following points:

- i. Risks associated with primary care practice
- ii. Risks associated with the ingestion of herbal medicines
- iii. The lack of co-operation between the many professional associations
- iv. Numerous interpretations of educational standards
- v. Access to and protection of materia medica
- vi. Increased co-operation between healthcare practitioners

It is important to Western Herbalists they continue as independent practitioners within a primary care context. It is the profession's responsibility to ensure our practitioners are well-educated, ethical, safe and effective. The NHAA believes the best way to achieve this is with statutory registration.

The NHAA also recognises that consumers of herbal medicine services should also have input to this debate.

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