



Submission
by
**National Herbalist's Association
of Australia**
to
**The Social Development Committee
Of the South Australian Parliament**
on
**Bogus, Unregistered and Deregistered
Health Practitioners**

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Executive Summary

- This 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's members practice as unregistered health practitioners.
- The NHAA is unaware of any practice by bogus or unregistered practitioners in South Australia other than those exposed in the media.
- The NHAA recognises that unscrupulous, bogus practitioners bring all unregulated practitioners into disrepute and supports any measure that could prevent these persons from preying on the sick and vulnerable.
- The NHAA supports a National scheme of regulation for unregistered practitioners of herbal medicine and naturopathy as recommended by the La Trobe University report: *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine* authored by Prof. Vivian Lin et al.
- The NHAA considers a national regulatory scheme for these professions will prevent untrained and bogus practitioners (claiming to be Naturopaths or Western Herbal medicine practitioners) from entering practice.
- The NHAA believes this regulatory scheme needs to be set in place with the approval of State Health Ministers in consultation with professional associations and educational institution giving regard to both professional and educational issues.



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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, with a current full membership of 836 (our total membership is 1460 including student and companion members). This represents approximately one third of 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 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 Full Membership of the Association elects the Board of Directors of the NHAA, with each member serving a 2-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 inclusive of but exceeding the requirements of the NSW Health Training Package), and must adhere to a comprehensive Code of Ethics and Continuing Professional Education (CPE).

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



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The Prevalence of Bogus, Unregistered and Deregistered Practitioners In South Australia

The NHAA is unaware of any bogus practitioners in South Australia other than those reported through the media.

NHAA full member practitioners are, with few exceptions, unregistered health practitioners. The few registered practitioner members of the NHAA are doctors who have undergone formal training in western herbal medicine.

The unregistered full members of the NHAA are either practitioners of western herbal medicine or Naturopaths who have obtained a formal qualification in western herbal medicine that meets the educational criteria of the association. These practitioners are bound by both a code of ethics and code of practice and are subject to investigation should a complaint be received. If the complaint is upheld after investigation the offending practitioner may be subject to sanctions or other disciplinary action.

The NHAA holds that the public is entitled to be treated in a fair and safe manner by anyone offering health services.

The Practices and Associated Safety Risks of Bogus Practitioners

The practices of the bogus practitioner tend to fall into two areas.

1. The exploitation of people who are vulnerable because of illness or fear of illness,
or
2. The exploitation of people for the bogus practitioner's own gratification.

In the first case, the bogus practitioner claims qualifications they do not possess with an aim of obtaining financial advantage by offering bogus treatments, often for life threatening illnesses.

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In this case, the practitioner uses questionable methods to 'diagnose' illness in clients often with a warning that conventional medical tests are not sensitive enough to detect the stated disease at such an early stage of development. Once diagnosed, the client is offered an expensive treatment regime touted as "the only possible solution to the problem".

This approach relies on the fear. The client fears they will develop a life threatening disease if they do not undertake the treatment.

In the case of clients previously diagnosed with life threatening illnesses who have exhausted options within the orthodox health system, false hope is offered of a cure for the incurable.

In the case of bogus practitioners who are preying on people for their own (sexual) gratification, treatments used by this form of practitioner may often involve 'therapies' that rely heavily on sexual contact in one form or another. This may occur during forms of "bodywork" such as massage, manipulation or acupuncture. It may also be in the guise of examination.

In either case, the bogus practitioner may be unregistered and without qualification, or have an unrelated qualification to the area of practice. However, the bogus practitioner may also be a deregistered practitioner who has subsumed the title of an unregistered practitioner allowing them to continue to have contact with potential victims. This can occur after disciplinary action has been taken by their previous registration board leading to their deregistration.

Additionally, in either case the intended clients are vulnerable because of their state of mind or medical condition.

The risks inherent in either of these approaches include:

- financial
- emotional
- medical



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Financial

Often the treatments offered by bogus practitioners claim secret ingredients gathered at great expense from exotic locations and processed to get the maximum benefit from the ingredients. The price for these 'remedies' is exorbitant, often running into hundreds if not thousands of dollars for the course of the treatment. In fact, the 'magic panacea' may be little more than a placebo powder or a cheaper supplement repackaged to fit the description given by the bogus practitioner.

In some cases the people being 'treated' are already financially stressed because of medical expenses related to orthodox medical treatment but because of the hope/cure offered, these people incur further debt to undergo a treatment of questionable value. In the case of a person suffering with a life threatening illness, treatment cannot begin until full payment is received. In such a case the financial burden can be transferred to surviving family members should the client die.

Emotional

The emotional trauma of being diagnosed as having a potentially life threatening illness by a practitioner is obvious. This trauma extends from the diagnosed person into members of the client's family. Add to this the disappointment when the treatment fails to deliver the promised outcomes and an emotional roller coaster is the outcome.

With the clients already diagnosed with life threatening illness, the offer of false hope can lead to a similar emotional roller coaster ride for the patient and their family.

Victims of bogus practitioners who act as sexual predators often require extended treatment for the trauma they have suffered and in reality never recover but learn to live with the trauma of their experience.

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Medical

Risks associated with the medical side of the practice of bogus practitioners fall into three major categories.

1. Misdiagnosis
2. Delayed treatment for serious illness
3. Medical treatment to restore health after treatment by bogus practitioner

Misdiagnosis

Because of the assessment tools used and lack of clinical training of bogus practitioners it is possible for a disease to be misdiagnosed and for improper or bogus treatments to be prescribed. This situation can lead, at best, to a delayed treatment and at worst to an exacerbation of a disorder before correct diagnosis and treatment is sought.

Delayed treatment

Treatment for a disease may be delayed by the client's belief in the bogus practitioner or the treatment regime they are undertaking. This delay may cause an exacerbation of the problem or make the problem harder or more expensive to treat. In the case of life threatening disease any delay in seeking proper diagnosis and treatment can be catastrophic.

Medical treatment to restore health

Where a bogus practitioner uses 'heroic' style treatments including prolonged fasts, purging or detoxification regimes a person's health may be injured. In this case there is a need for the person to undergo treatment to restore them to optimal health. This will involve time, resources and unnecessary discomfort for the person involved.

In the case of sexual misconduct by a bogus practitioner, the victim may need restorative psychological treatment.

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Methods Used To Promote Services and Risks for Exploitation

The most common method for bogus practitioners to promote their services is by advertising in print media and in particular by advertising in community based newspapers. Leafletting is also common.

The advertisements used often promote a diagnostic tool of questionable value with a promise of identifying causes for symptoms not able to be diagnosed by orthodox medical tests. Along with the diagnosis is a promise of cure for the identified disorder.

Measures Available to Protect the Public

The NHAHA believes the best protection for the public lies within a form of statutory regulation setting minimum education, practice standards, code of conduct and code of ethics for practitioners. This position is in alignment with the recommendations of the La Trobe University report *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine* authored by Vivian Lin et al.¹

In the report, summary item 3.12 recommends, "...an independent regulatory body be established to determine uniform minimum professional and educational standards and to provide effective complaints handling mechanisms and sanctions related to misconduct."

This measure in conjunction with legislation preventing deregistered practitioners from subsuming unregulated practitioner titles offers the best possible protection for the public at large.

Under a system of registration, title (such as Naturopath, Western Herbal Medicine Practitioner, Medical Herbalist) is protected to those that are qualified to a Degree level as set out in the legislation.

Registered practitioners are also restricted from making false claims in their advertising.

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There will also be greater powers to disbar bogus practitioners acting under registered titles, to discipline registered practitioners who act unethically, and to prosecute practitioners, registered or otherwise, who act unlawfully.

An opportunity now exists for a national register to be established. Under the Commonwealth Heads of Government agreement a national register of health practitioners will come into being under the auspices of the Council of Health Ministers by July 2008. This will include all professions currently regulated in all states and territories. After that date the Council of Health Ministers' working party is to consider the national regulation of partly regulated and unregulated professions.

The NHAHA strongly urges the SA Health Minister to put a priority on the regulation of Herbalists and Naturopaths as a means to truly effect public safety and confidence in these professions.

Related Matters

Recommendations to regulate the practice of herbal medicine and naturopathy have been made in many reports by government appointed committees.

These include the following.

- The Expert Committee On Complementary Medicines In The Health Care System: *Recommendations 28 & 29*²
- *The Government Response To The Expert Committee On Complementary Medicines In The Health Care System*³: response to recommendation 28 & 29 was to refer to these recommendations to the states for action through the Australian Health Minister's Conference as these recommendations fall within jurisdiction of the state health ministers.
- *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine*⁴ section 3.1 Recommendations for regulatory requirements states "The



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research group recommends that an independent regulatory body be established to determine uniform minimum professional and educational standards and to provide effective complaints handling mechanisms and sanctions relating to professional misconduct.”

- *Community Affairs References Senate Committee: Report on the inquiry into services and treatment options for persons with cancer.*(5) supports the recommendations of the *The Expert Committee On Complementary Medicines In The Health Care System*.

Given the support for regulatory control of the professions by various governmental bodies it makes sense to move forward on this proposition through the auspices of the Australian Health Minister's Conference as part of the harmonisation of the health care work force proposed in the productivity commission's report⁶.



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References:

- 1 Lin V et al; 2005 *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine*
- 2 Bollen M. 2003 *The Expert Committee On Complementary Medicines In The Health Care System*
- 3 Pyne C; 2005; *The Government Response To The Expert Committee On Complementary Medicines In The Health Care System*
- 4 Lin V et al; 2005 *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine*
- 5 Community Affairs References Senate Committee; 2005 *Report on the inquiry into services and treatment options for persons with cancer.*
- 6 Productivity Commission, 2006; *Australia's Health Workforce*

Attachments

1. Constitution of NHAA
2. Code of Ethics and Standards of Practice of NHAA
3. NHAA course accreditation guidelines