
RCHM

Register of Chinese
Herbal Medicine

中醫藥協會

1st October 2009

Dear herbal supporter

Public Consultation Proposals **– WE URGENTLY NEED YOUR HELP!**

This letter explains more, and tells you how you can take positive action.

As you may know, the Department of Health is currently consulting on the proposed statutory regulation of herbal/traditional medicine, Traditional Chinese Medicine and acupuncture practitioners. More information and the Consultation Document can be found at:

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

The draft response to this consultation from the Register of Chinese Herbal Medicine, the lead professional body for Chinese herbal medicine in the UK, can be viewed at <http://www.rchm.co.uk> and our final response will be submitted to the Department of Health before their deadline of **2nd November**.

The main message contained in the Consultation Document is that after almost 10 years of commitment to the statutory regulation of herbal/traditional medicine, Traditional Chinese Medicine and acupuncture, it is very likely that the government will withdraw from that commitment.

A failure to bring in statutory regulation for herbalists will have disastrous consequences for both practitioners and patients. This is because in early 2011 a change in medicines law will come into effect whereby a wide range of herbal remedies will cease to be available to practitioners to prescribe to their patients. Herbal remedies will have to be either licensed in the manner of pharmaceuticals drugs (completely unrealistic) or registered according to European law under rules which make it extremely difficult for most herbal remedies, and especially Chinese herbal medicines, to get through. The result will be that many suppliers of herbal medicines will go out of business. Practitioners will lose the tools of their trade, and many members of the public who benefit from herbal medicine will cease to have access to a range of medicines that have been available under UK law for decades.

HOWEVER, if practitioners belong to a statutory professional body they can be classed as ‘authorised health professionals’ and in that capacity could commission the manufacture of unlicensed herbal remedies for the use of their patients. There are powerful other reasons to support statutory regulation, to enable the public to clearly identify well-qualified practitioners, subject to an enforceable ethical code. But the question of access to medicines is critical for the future of herbal practitioners and therefore critical for their patients. Without statutory regulation Chinese herbal medicine, in particular, could be irreparably damaged.

This is why we are informing our patients of the current situation. We ALL need to act immediately to ensure that our voice is heard, and to do our best to persuade the government to proceed with statutory regulation of herbalists.

What is the government is now proposing?

The government is considering imposing a lesser licensing system on practitioners. The crucial point about this is that it will give herbalists no special legal rights when it comes to medicines law (see below) and will relegate herbal/traditional medicine and traditional acupuncture practitioners to a second-rate category, using a similar licensing scheme to that currently employed to regulate bouncers, bodyguards and wheel clampers.

What do you mean by “special legal rights”

In 2011 a new European Traditional Herbal Medicine Directive will come into force to replace section 12(2) of the Medicines Act of 1968. When this happens, without statutory regulation herbalists will no longer have the right to access ‘finished’ medicines from manufacturers and herbal suppliers for prescriptions to individual patients. Therefore they will not be able to get hold of herbal pills, capsules, dried herb mixtures and herbal ointments made up for individual patients by third-party suppliers, i.e. herbal suppliers. It will also be impossible for herbalists to get third-party herbal prescription services that supply individualised herbal prescriptions (including those which are tinctures and dried herbs) to named patients at their request. So, for those herbalists without their own herbal dispensaries on our own premises, there will be no legal way to prescribe herbs to our patients.

But what has the new European Traditional Herbal Medicine Directive got to do with statutory regulation? Aren’t they separate issues?

No. To solve the problem of loss of herbal medicines supply after 2011, the UK medicines regulator, The Medicines and Healthcare products Regulatory Agency (MHRA) has proposed that third-party medicines supplied on request of statutorily regulated practitioners for individual patients can continue under MHRA licence via Section 5.1 of the main European Medicines Act 2001/83/EC¹. However, the key point here is that this facility is only available to statutory regulated health professionals. Therefore, if herbalists are not classed legally as statutory regulated health professionals, they will not be able to access our herbal medicines.

If herbalists cannot obtain their herbal medicines from herbal suppliers, the RCHM is certain, having spoken to its Approved Suppliers, that most of them will go out of business. And if this happens it is very likely that there will be an increase in the purchase of unregulated medicines via the internet. Unlike those of our Approved Suppliers, these remedies often lack any reliable quality assurance and as we know, some have been found to be illegally mixed with conventional drugs.

On the other hand, if the government can be persuaded to continue with SR, RCHM members would be able to secure “authorised health care professional status” and then we could legally commission herbal medicines from manufacturers to supply to our patients. These would have to be made to assured medicinal quality. RCHM members as future statutorily registered herbal practitioners would ensure high standards in the supply of herbs for the benefit of our patients.

Does the government have any other suggestions in the Consultation Document?

Yes, another possibility is that voluntary regulation continues in one form or another. This would give neither the public nor herbalists any security. Voluntary regulation would mean that herbal practitioners would continue to be legally indistinguishable from ordinary members of the public. Failing practitioners would not be prevented from practising, as would happen with statutory regulation.

¹ This proposal can be read in detail on the MHRA website at <http://www.mhra.gov.uk/home/groups/es-herbal/documents/websitesresources/con2024908.pdf>

Also, there would be no long-term security of access to potent herbal remedies such as *Atropa belladonna* (deadly nightshade) or *Ephedra sinica* (ephedra herb) granted for herbal use under legislation passed in the early 1970s. In addition it would mean that statutorily regulated health professionals (e.g. doctors) will not be allowed to make referrals to herbal/traditional medicine practitioners and acupuncturists.

There will be no independent accreditation of training programmes, mandatory continuous profession development (CPD) and the development of best practice towards which for the last decade we and other voluntary bodies have been working in anticipation of statutory regulation.

Even worse, the Consultation Document mentions that the government is actually contemplating getting rid of another part of the Medicines Act of 1968, this time Section 12(1). This section is what allows herbalists to prescribe individual herbal medicines for their patients.

In short, it is clear that access to a full range of herbal medicines can only be preserved if herbal/traditional medicine practitioners are statutorily regulated. We need to push the government to proceed with their previous commitment to statutory regulation.

This will ensure that the public have a professional group, which is able to deliver expert, high quality herbal treatment tailored to the individual, with the correct safeguards in place. Herbalists will be a source of information and education about the use of herbal and traditional remedies. Doctors and other health professionals will gain important new partners in helping to integrate the healthcare of the huge number of patients who use herbal remedies.²

What do you need to do, as a supporter of herbal medicines?

- Write to your own MP, explaining the situation.
- Write your own response to the Department of Health
- Get your friends, family, colleagues and anyone you know who believes that the public should have access to herbal medicines, prescribed by properly trained herbalists, to write to their MPs and the Department of Health.

The RCHM gives guidance below on all of these actions, to make it easy for everyone to let their voice be heard. Please do take action. We cannot afford to let statutory regulation fail. Your input really does count & could make the difference to the future of herbal medicine in the UK.

The RCHM is indebted to the EHTPA, our umbrella organisation, for the work that they have done in response to the Consultation Document and for their own briefing documents about this matter. Their own response to the Department of Health, a Briefing Paper, and their documents about suggested actions are shown on their website at <http://www.ehpa.eu/>

If you have any queries about any of the issues below, or about what is required of you, please contact the RCHM's office manager, Sue Harris or Emma Farrant, secretary & treasurer:

Post: Office 5, Ferndale Business Centre, 1 Exeter Street, Norwich, NR2 4QB.

Telephone: 01603 623994

Fax: 01603 667557

Email: herbmed@rchm.co.uk

Website contact form at: www.rchm.co.uk

² Herbal medicines dominate the UK natural health market accounting for almost 60 per cent of the sector value (Mintel, *Complementary Medicines*, 2003).

What to do:

1) Respond to the Department of Health's Consultation Document by the closing date of November 2nd.

To respond to the Department of Health Consultation Document it might help to read the RCHM's draft letter and response to the Department of Health's Consultation Document at <http://www.rchm.co.uk> and also the response by our umbrella organisation, the European Herbal and Traditional Medicine Practitioners Association, which can be accessed at the EHTPA website: <http://www.ehpa.eu/>. Alternatively, you can read their Briefing Paper on the same website.

The Consultation Document is presented in a complicated way that makes it difficult for members of the public to respond. Do not be daunted. An incomplete response will also send your message just as well – maybe even better!

You can respond to the Consultation Document via the automated response system template provided by the DH at http://www.info.doh.gov.uk/questionnaire/ahmtcm_consultion.nsf/questionnaire?openform but if you don't wish to use the template you can respond directly by email at hrdlistening@dh.gsi.gov.uk or alternatively by post to the AHMTCM Consultation Team, Department of Health, Room 2N09, Quarry House, Quarry Hill, Leeds LS2 7UE.

You should indicate whether you are replying as an individual or on behalf of a group of people. Your response may be made public but if you prefer it to remain private you can make this clear in your reply.

The RCHM has been advised that if everybody was to send the same “template” response that the Department of Health would treat them all as a single response. Therefore we encourage you to choose one or two (or as many more as you would like) of the points below when making your response and to try and make it your own.

Below are some key points you can make:

1) Statutory regulation is in the public interest as it means that the public wishing to consult herbalists can be assured that they are well trained and competent at their job. Should any practitioner be found seriously wanting, he or she can be struck off the practitioners' register. Voluntary regulation cannot deliver this and any other licensing system will do nothing to ensure that high quality training and professional development is maintained across the UK.

2) If herbal/traditional medicine practitioners are not statutorily regulated, it will not be legal for doctors and other healthcare professional who are statutorily regulated to make referrals to them. This is certainly not in the interests of patients who wish that the health professionals they consult all work together in a complementary fashion on their behalf.

3) Only statutory regulation can allow herbal/traditional medicine practitioners to access finished herbal products supplied by a herb company. Because statutory regulation will enable practitioners to be recognised as 'authorised health professionals' under the main European Medicines Directive, this will enable practitioners to order up herbal remedies from herbal suppliers for individual patients. Since this is done under Government licence, the quality of these products will be assured.

4) Without statutory regulation, when legislation changes in 2011, the supply of medicinal herbal pills, tablets, capsules, dried herb mixtures and medicinal herbal ointments made up for individual patients by third-party suppliers will come to a halt. Also under threat are third-party herbal

prescription services that supply individualised herbal prescriptions (including tinctures and dried herbs) to named patients at the practitioner's request.

5) Over the past 40 years this mode of supply has become an essential part of herbal practice in the UK and many practitioners are totally reliant on such services. The loss of this facility will put many practitioners and several of their suppliers out of business. This will further damage the UK economy and swell unemployment during the current economic downturn.

6) To make matters worse many patients will be forced to turn to internet supply. Unfortunately, these remedies often lack any reliable quality assurance and some have been found to be illegally mixed with conventional drugs. For these reasons statutory regulation is the only sensible way forward.

7) Ministers must be called to account for this threatened U-turn and asked how they can justify the reduced public choice and increased public risk if statutory regulation does not go ahead.

8) You may wish to state your interest at the bottom of the consultation by saying how valuable herbal medicine is to you, how much it has benefited you, how worrying it would be to you if your herbalist (perhaps who is a member of the RCHM) could no longer access your medicines etc.

2) Also contact your MP

Please contact your MP to ask he or she to take up your concern with the responsible Minister - Ann Keen MP, Parliamentary Under Secretary of State for Health. You could ask your MP if he/she is aware that the Department of Health has issued a Consultation Document and ask him/her to write the Health Minister to seek reassurance that the statutory route is not being abandoned.

How to contact your MP

If you are not sure who your MP is then you can find out at <http://findyourmp.parliament.uk/> or telephone the House of Commons Information office on 020 7219 4272.

Telephoning with a simple question might get a faster response than writing. You will talk to a relevant office or have to leave a message. Phone the House of Commons switchboard on 020 7219 3000 and ask for your MP by name.

You can also contact your MP through their local constituency office. Addresses and contact numbers will be listed in local libraries, town halls, an MP's personal website or through the House of Commons Information Office.

By letter. When writing to any MP the address to use is: House of Commons London SW1A 0AA.

By email. The majority of MPs now have email addresses that you can write to.

Again, you can refer to the eight points above, choosing which ever feels most important to you. You could state that you rely on herbal medicine, have found it to greatly benefit you, feel worried that you might lose access to it, or are concerned that without statutory regulation your herbalist/RCHM member may no longer be able to practice, or whatever is true for you.

3) Pass this letter on to your friends, family, colleagues and anyone you know who believes that the public should have access to herbal medicines, prescribed by properly trained herbalists.

Thank you so much for taking the time to do this!

We are most grateful.