

SO WHAT IS HAPPENING?

This document explains more

The Department of Health is currently consulting on the proposed statutory regulation of herbal/traditional medicine, Traditional Chinese Medicine and acupuncture practitioners. The Consultation Document can be found at:
(http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_103567)

The main message contained in the Consultation Document is that after almost 10 years of commitment to the statutory regulation of herbal 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. Why?

Because in early 2011 a change in medicines law will come into effect whereby a wide range of over the counter herbal remedies and medicines made up by a third party will cease to be available to practitioners to prescribe to their patients. These herbal remedies will have to be licensed in the manner of pharmaceuticals drugs. So far very few herbal products have made it through the licensing process. After 2011 the only way herbalists can continue to have access to the full range of herbal medicines is by being designated 'authorised health care professionals'. They would then be able to legally commission a medicine to be made up for their patients. The only way we can achieve the status of 'authorised health care professional' is if herbalists have a statutorily protected status.

What will be the effect of this on western herbal medicine?

Initially at least herbalists will continue to have access to tinctures which are currently classed as 'start up materials' – not a finished medicine. However it is possible that we would no longer be able to use cough syrups, medicinal creams and capsules or tablets. Access to things like Mediherb products is at risk and any members who currently use a third party to send a medicinal tea mix or a tincture mix to their patients will no longer have the right to do so. Herbalists who work in shops will not be allowed to dispense (unless it is their own shop)

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.

There are powerful other reasons to support statutory regulation,

1. To enable the public to clearly identify well-qualified practitioners, subject to an enforceable ethical code.
2. To enable other health care professionals to recognise our standards of training and expertise.

This is why we are informing all our members and 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 going back to considering other regulatory options such as voluntary regulation, or even no regulation at all! They have even introduced the possibility of a licensing system for practitioners similar to that used for bouncers and wheel clampers!

Although these other options are being portrayed as 'light touch' and may seem to have advantages crucially none of them will give herbalists any special legal rights when it comes to medicines – in fact despite our high level of training we would be treated as no different than any member of the public. Thus there is no protection of our right to access our medicines – especially of Schedule III (practitioner only) herbs.

This would be a betrayal of all the work that the profession has put into raising educational standards, implementing continuing professional development and training, establishing codes of ethics and disciplinary procedures. If there is no statutory regulation the impetus to continue to raise standards within the profession disappears since those abiding by these standards will be clearly disadvantaged financially. A situation of 'lowest common denominator' would then evolve to the detriment of the profession, our practitioners and the patients we serve.

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 many of the over-the-counter preparations that herbalists and our patients have had access to for many years will disappear unless the products have a license. These licences cost a huge amount of money to acquire and many of the smaller companies have already withdrawn their products from the market. Consumer choice is already being badly affected. The public are noticing but don't realise why this is happening.

With the disappearance of section 12(2) we will, as we have said before, likely lose access to syrups, creams, tablets and capsules as well as other third-party dispensing services.

Those herbalists who do not maintain their own dispensary will then lose all access to herbal medicine apart from some few products (currently this is very few) that will have acquired a license and will therefore be available over the counter.

Importantly and for the first time the Government is contemplating getting rid of section 12(1) of the Medicines Act of 1968. This section allows herbalists to prescribe individual herbal medicines for their patients. If this happens, all semblance of protection of the practice of herbal medicine would disappear overnight.

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 authorised health care professionals 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 authorised health care professionals. If herbalists are not statutorily regulated health professionals, they will not be able to access the full range of herbal medicines.

This may put some herbalists out of business, will definitely affect our suppliers and will probably lead to an increase in the purchase of unregulated medicines of unknown provenance and quality via the internet, clearly quite the opposite of what the Government ought to be encouraging.

These dangers can easily be avoided if the Government holds to its previous commitment to regulate the herbal profession.

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.

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

1. Write to your own MP, explaining the situation.
2. Complete the online Consultation Document response or write your own response to the Department of Health
3. 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

Please see the NIMH website (www.nimh.org.uk) where we have provided guidance as to how you can do this. We cannot afford to let statutory regulation fail. Please do take action - your input really does count & could make the difference to the future of herbal medicine in the UK. Thank you for taking the time to do this.

Further information can be found on the European Herbal and Traditional Practitioners Association website <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 NIMH office Elm House, 54 Mary Arches Street, Exeter, Devon, EX4 3BA
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