

Letter to be sent to election candidates 7 April 2010

Dear Candidate (substitute name)

On April 1st, just before the election was called, the Health Secretary Andy Burnham made an eleventh-hour statement about the regulation of herbal medicine, traditional Chinese medicine (TCM) and acupuncture practitioners. The Minister said *“I am minded to legislate to ensure all practitioners supplying unlicensed herbal medicines to members of the public in England must be registered with the Complimentary and Natural Healthcare Council (CNHC).”*

The regulation of herbal, TCM and acupuncture practitioners has been painstakingly considered for over a decade. In 2000, the House of Lords’ Committee on Science and Technology called for the statutory regulation of herbalists and acupuncturists and in 2001 the Government agreed with this recommendation launching two working parties to look at the regulation of herbal medicine and acupuncture. When these working parties published their reports in 2003, the Department of Health (DH) undertook a public consultation that found that 98% of the respondents favoured statutory regulation of this sector. In 2005 the Government actually published a timetable for this statutory regulation but the regulation was delayed because of the Shipman disaster. In 2006 the Health Minister, Jane Kennedy, reconvened another DH working party to advise on the implementation of statutory regulation for practitioners of herbal medicine, acupuncture and TCM that reported to the Health Minister Ben Bradshaw in 2008 and this led to another public consultation in 2009. Unbelievably, nearly a year later the results of this public consultation have not yet been published although the Health Minister, Ann Keen, has said in a recent letter that “the consultation responses were overwhelmingly in favour of regulation.”

Andy Burnham’s April 1st statement is woefully short on detail and asks more questions than it answers. Since millions of people consult herbalists and acupuncturists every year and I too have a personal interest in the future of herbal medicine, I write now to ask for your support for the statutory regulation of herbal medicine by writing to the Secretary of State for Health for answers to the following questions?

1. The European Directive on Traditional Herbal Medicinal Products, to be fully implemented in April next year, will prevent herbal practitioners from accessing herbal medicines from third party suppliers and manufacturers unless regulation enables these practitioners to be recognised as ‘authorised health professionals’ under Article 5.1 of the main EU medicines Directive, 2001/83/EC. Can the Secretary of State for Health unequivocally confirm that his proposal for registration of herbalists with the Complementary and Natural Healthcare Council (CNHC) will indeed give herbal practitioners ‘authorised health professional status’?

2. Will the Secretary of State provide positive assurance that all those using 12(1) unlicensed provision - not just those using the Article 5.1 exemption - will have to register with the CNHC (or other statutory regulator)?
3. How can voluntary registration by the CNHC (a non-statutory body) enforce protection of title which is an essential feature of statutory regulation?
4. The Secretary of State's statement says that his proposals apply to practitioners in England and not to those in Scotland, Wales and Northern Ireland and that a full joint response should be published in due course. When can we expect this to occur? Does the current proposal have the backing of Ministers in the devolved administrations?
5. The Secretary of State's proposals on regulation of herbalists and TCM practitioners do not explain what is planned for acupuncturists. Since the majority of TCM practitioners practise acupuncture as well as herbal medicine it would seem sensible to have all these three modalities regulated together. Is there any reason from a legal point of view why the CNHC (or the Health Professions Council) should not provide statutory regulation for acupuncturists? Can the Secretary of State confirm that such statutory regulation will be implemented without further delay?
6. The DH assessment of the public consultation carried out last summer that attracted some 6500 responses has not yet been published. Despite this the DH is replying to letters written to it about the consultation saying "*Early findings are that the consultation responses were overwhelmingly in favour of regulation but favoured an approach that will not be unduly burdensome and will not imply equivalence of efficacy compared with Health Professions Council (HPC) regulated professions.*"¹ Please will the Secretary of State for Health say when the results of the consultation will be made available so that it can be made public precisely what the conclusions of this survey actually are?
7. The 2007 White Paper, *Trust, Assurance and Safety, the Regulation of Health Professionals in the 21st Century* advised that emerging healthcare professions should be regulated by the existing statutory bodies. As a result herbalists, acupuncturists and TCM practitioners were directed by the DH to develop statutory regulation with the Health Professions Council (HPC) and spent two years engaged in working towards this end. Following this, the HPC wrote to the Secretary of State for Health to say that the HPC was prepared to go ahead with statutory regulation of this sector. In the light of this, how can Ann Keen assert that regulation of this sector should "not imply equivalence of efficacy compared with the Health Professions Council (HPC) regulated professions?" How does this concur with the fact that osteopaths, chiropractors and art therapists have all been granted statutory regulation with no evident difference in their evidence base?
8. At present the CNHC is constituted to run voluntary registration having no statutory responsibilities. It does not currently provide some essential services run by statutory councils including overseeing the accreditation of training courses and continuous professional development programmes. These systems are essential for ensuring a high standard of training and practice throughout the UK. It is clear that for the CNHC to fulfil its statutory function, it will require the allocation of considerably more financial resources than it has now. Can this be realistic in the current economic climate? Has any assessment of what is needed been carried out and have specific resources been allocated for this purpose? Would it not make more financial sense to stick with the HPC since it is structured and funded for this purpose?

¹ Letter (9/4/10) from Health Minister, Ann Keen, to the Chair of the European Herbal and Traditional Medicine Practitioners Association.

Lastly, may I put a question directly to you standing as an MP at the forthcoming election? Please can you let me know if you support the immediate statutory regulation of practitioners of herbal medicine, acupuncture and TCM?

When responding I would be most grateful if you can also confirm that you have forwarded the questions I have asked to the Secretary of State for Health? Please can you let me know how he responds in due course?

With many thanks.

Yours sincerely,

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