**Complementary Healthcare Council of Australia**

**White Paper**

**Registration of Naturopaths & Western Herbal Medicine Practitioners:**

**Protecting Public Health and Rights**

May 2013

Dr Wendy Morrow

Chief Executive Officer

Complementary Healthcare Council of Australia

**Title:** Complementary Healthcare Council of AustraliaWhite Paper onRegistration of Naturopaths & Western Herbal Medicine Practitioners: Protecting Public Health and Rights

Publication date: May 2013

ISBN:

**Published by:** Complementary Healthcare Council of Australia

PO Box 450

Mawson, ACT 2606

Australia

Telephone: 02 6260 4022

Facsimile: 02 6260 4122

E-mail: director@chc.org.au;

Website: [www.chc.org.au](http://www.chc.org.au)

The contents of this document are subject to the provisions of the *Copyright Act 1968* as amended from time to time.

© 2013 Complementary Healthcare Council of Australia

**The CHC endorses the right of all Australians to:**

* Choose their healthcare provider in an effective integrated healthcare model to enhance their health
* Take responsibility for their health and wellbeing
* Access professional services and treatment options by qualified healthcare practitioners
* Trust their healthcare practitioner is bound by a particular standard of care
* Trust there are proper safeguards and measures in place to ensure their protection, for example in case of malpractice
* Know that a non-compliant healthcare practitioner who does the wrong thing will be dealt with effectively, and barred from practice where appropriate
* Know that their healthcare practitioner will refer when necessary, and has a solid understanding of the broader implications of patient care

Table of Contents

[1. Executive Summary 4](#_Toc360099486)

[Call to Action 5](#_Toc360099487)

[Background 5](#_Toc360099488)

[2. Why the CHC is Supportive of Statutory Registration of Naturopaths and Western Herbal Medicine Practitioners. 6](#_Toc360099491)

[3. Proposed Regulatory Changes with the Potential to Disadvantage Complementary Medicine Practitioners 7](#_Toc360099492)

[The review of eligibility for health fund rebates for Complementary Medicine Practitioners 7](#_Toc360099493)

[The introduction of In Vitro Diagnostic Device listing to the TGA 7](#_Toc360099494)

[Advertising of Complementary Medicines to Practitioners 8](#_Toc360099495)

[4. The Criteria for Regulation 8](#_Toc360099496)

[The AHMAC Criteria 9](#_Toc360099497)

[5. What the CHC is calling for 9](#_Toc360099498)

# Executive Summary

# Regulatory changes threaten the scope of practice of Naturopaths and Western Herbal Medicine Practitioners

* The TGA In-Vitro Diagnostic devices regulations define healthcare practitioners as those registered by AHPRA**.** Non-AHPRA practitioners are therefore considered to be lay-people and this will have restricted access to some point-of-care testing devices currently used by practitioners. This comes into force July 1 2014.[[1]](#footnote-1)

# In the 2012 federal budget, the government announced a review of funding for health-fund rebates, with the intention of removing rebates for practices that are not considered to be evidence-based. This is planned to be implemented January 1 2014.[[2]](#footnote-2)

# For the purposes of advertising, currently Naturopaths and Western Herbal Medicine Practitioners are classified as health care practitioners and excluded from advertising regulations.[[3]](#footnote-3)

# In June 2013 the TGA released a regulatory impact statement on proposed changes to advertising regulations, which proposes changing the definition of health care practitioner to those practices registered by AHPRA. This would see non-AHPRA practitioners treated as lay people and covered by advertising regulations. This will significantly impact the ability of these practitioners to receive education and advertising from practitioner-only supplement manufacturers. [[4]](#footnote-4)

# It is the belief of the CHC that these proposed changes have the ability to seriously impact the scope of practice of Naturopaths and Western Herbal Medicine Practitioners. We believe that these practitioners are very important to the complementary medicine industry and the health care of Australian consumers. The CHC is therefore planning to promote and lobby for the inclusion of Naturopaths and Western Herbal Medicine Practitioners under AHPRA as registered health professions. The CHC is not planning to replace the role of professional organisations which represent natural therapists currently.

## 

## Call to Action

**If you are a Naturopath or Western Herbal Medicine Practitioner, these issues will affect you.**

Click [here](http://moodle.chc.org.au/mod/questionnaire/view.php?id=275) to register your interest and/or support for the Registration of Practitioners Campaign.

To keep informed of the C HC’s actions and the [Registration of Practitioners Campaign](http://chc.org.au/Registration-of-Practitioners) be sure to visit our webpage <http://chc.org.au/Registration-of-Practitioners>, and check back regularly for important updates.

|  |  |
| --- | --- |
|  |  |

## Background

## The statutory registration body that regulates a range of healthcare practitioners in Australia – the Australian Healthcare Practitioner Regulation Agency (AHPRA, <http://www.ahpra.gov.au/>) – is responsible for implementing and overseeing the National Registration and Accreditation Scheme (NRAS) and supporting the various registered professions’ National Boards.

## The objectives of the National Scheme are to:

* Help to keep the public safe by ensuring that only healthcare practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered;
* Facilitate workforce mobility for healthcare practitioners;
* Facilitate provision of high quality education and training for practitioners;
* Facilitate the assessment of overseas qualified practitioners;
* Facilitate access to services provided by healthcare practitioners; and
* Enable the continuous development of a flexible Australian healthcare workforce.

Currently, there are fourteen classes of practitioners that are registered, including Medical Practitioners, Nurses, Midwifes, Pharmacists, Dentists, Chiropractors, Osteopaths, Psychologists, Optometrists, Podiatrists, Physiotherapists and more recently, Practitioners of TCM (Traditional Chinese Medicine). Registration also provides for the establishment of minimum standards of education, a proper system for adequate complaint and disciplinary procedures, and protection of title.

A number of classes of healthcare practitioners are not currently regulated by AHPRA, including Naturopaths and Western Herbal Medicine Practitioners (WHMPs), which represent a large number of practitioners working in the Australian community. It was estimated by the Australian Bureau of Statistics that in 2006 there were 2982 Naturopaths in Australia, which represented a greater than 50% increase over the preceding 10 years. This is noteworthy, as this number is significantly larger than practicing Chiropractors (2488), Osteopaths (776) and TCM Practitioners (480) respectively, for the same period -all of which are registered professions with AHPRA.[[5]](#footnote-5)

Naturopaths and Western Herbal Medicine Practitioners are currently ‘self-regulated’ by virtue of membership to one of the large number of professional bodies that have been established to represent these professions. Critics argue that these bodies have conflicting and contradictory rules and standards, and varying levels of education required for acceptance.

This paper is written with the intent of elucidating and bringing forward the urgent issue of statutory registration, and stimulating discussion around the need for and benefits of statutory registration to the Australian public, to Naturopaths and Western Herbal Medicine Practitioners, and to the complementary medicine industry as a whole.

# Why the CHC is Supportive of Statutory Registration of Naturopaths and Western Herbal Medicine Practitioners.

In Australia, the demand for complementary and alternative medicines[[6]](#footnote-6) is increasing, with 1 in 6 Australians consulting with Naturopaths and Western Herbal Medicine Practitioners. They are a significant component of Australian primary healthcare professions, accounting for up 8.7 million health consultations per year.[[7]](#footnote-7) This is also reflected in the wide recognition by private health funds, with the majority offering rebates for Naturopathic and Western Herbal Medicine Practitioner consultations.[[8]](#endnote-1)

It is acknowledged that Naturopaths and Western Herbal Medicine Practitioners have successfully practiced in our community for many generations without statutory registration. However, recently, there have been signs of negative impacts upon the ability for these professionals to effectively continue their contribution to primary healthcare. A notable example of this being the blanket approach taken by the so called 'Friends of Science in Medicine' group, who called for the removal of teaching of all complementary medicine courses from Universities around the country. Clearly this has the potential to threaten both the quality of the education that is available to future practitioners and the professional standing of these practitioners in the community.

Of perhaps greater concern is a number of regulatory changes that have been proposed or introduced by Therapeutic Goods Administration (TGA) and the Federal Government. These changes have the potential (unintended or not) to severely limit the scope and the viability of practice for these professions, which will be further detailed below. These changes are an issue, not just for the practitioners concerned, but also for the consumers and patients of whom they serve, who will ultimately have reduced freedom to choose how they care for their health.

**The main tools that Naturopaths and Western Herbal Medicine Practitioners work with are:**

* Complementary medicines and natural healthcare products;
* Many Naturopaths and WHMPs also employ the use of in vitro diagnostic tools: such as in-clinic screening devices and tests to assist in elucidating key information and confirm clinical findings, for example urinary, blood and bioimpedence analysis.

**Access to important tools of the trade is vital as they can differentiate the role, quality and efficacy of the health care received by patients and consumers. For example, in-clinic screening and testing devices (IVDTs) such as Bioimpedance and Live Blood analysis, Vega machine, Cyber Trone/Cyber Scan, Indican, pH, Ketone and ORAC testing.**

**The reforms currently in motion will reduce access to and use of these devices by all non-registered practitioners, effective from July 2014. This, of course, will directly affect Naturopaths and Western Herbal Medicine Practitioners who utilise IVDTs as a part of their clinical care and practice.**

# Proposed Regulatory Changes with the Potential to Disadvantage Complementary Medicine Practitioners

It is the position of the CHC that the recent changes in the regulatory and political environment necessitate an urgent re-examination of the position on statutory registration by both the professional bodies and the members of these professions. These changes include:

## The review of eligibility for health fund rebates for complementary medicine practitioners

* It was announced in the 2012 federal budget that a review would take place to consider the practice of health funds providing rebates on services provided by the various complementary medicine practitioners.
* Professor Chris Baggoley, Chief Medical Officer for the Department of Health and Ageing was appointed to oversee the review of private health insurance rebates for natural therapies.[[9]](#footnote-8)
* The review commenced in July 2012, to identify which natural therapies are underpinned by a robust evidence base.
* Prof Baggoley has advised that rebate changes will be implemented from 1 January 2014.
* After this date health funds will only pay benefits for natural therapies that have been found by the review to be clinically effective.

## The introduction of In Vitro Diagnostic Device listing to the TGA

* The TGA announced in 2009 that all in-vitro medical devices would be included on the Australian Register of Therapeutic Goods (ARTG) by 1 July 2014.
* An aspect that has not been widely publicised is that within the Therapeutic Goods Regulations, a health practitioner is defined for the purposes of determining which practitioners can use devices designed for professional use. Naturopaths and Western Herbal Medicine Practitioners are **not** included in this definition, but all practices regulated by AHPRA are considered to be healthcare practitioners for the purposes of these Regulations.
* Other practitioners not included in this list are considered by the regulator to be lay people or at the same level as consumers.
* The potential impact of this is that companies currently selling in-vitro diagnostic devices (IVDDs) to these non-registered practitioners will have to significantly modify many of the devices to be suitable for use by a ‘consumer’.
* This is a very significant expense and is likely to reduce the available choice of these devices on the market. It may also mean the loss of devices that practitioners currently rely upon, if companies are unable or unwilling to make the required changes.
* Finally, there are a large number of tests currently available that are considered unsuitable for use by consumers due to the serious nature of the diseases that they measure. These will not be allowed to be promoted or sold to non-registered practitioners from 1 July 2014.
* Devices that could be impacted by these changes include point of care urinary tests, finger prick blood tests, biological impedance analysers and other devices which provide data about health conditions from a body fluid sample or by being in contact with the body.

## Advertising of Complementary Medicines to Practitioners

* A review of the advertising of all therapeutic goods, including complementary medicines is currently underway by the TGA.
* In May 2012 the TGA published a draft document outlining some of the intentions with regard to advertising changes.[[10]](#footnote-9)
* In the current advertising legislation, section 42AA of the *Therapeutic Goods Act 1989*,[[11]](#footnote-10) a definition of health care practitioners is included, and advertising and educational materials directed to these practitioners are considered to be exempt from the *Therapeutic Goods Advertising Code 2007* for the purposes of providing technical product information, and also for the advertising of 'practitioner-only products'.
* This definition specifically includes Naturopaths and Western Herbal Medicine Practitioners.
* The proposed changes remove this list and simply reference a healthcare practitioner to a practice that is regulated by AHPRA.
* The impact of these reforms, should they come into effect, would be to remove any special advertising status that non-registered practitioners are currently afforded. This would prevent complementary medicine companies from being able to provide any technical information to practitioners to assist them to understand the mechanisms of action and safety issues as they relate to products being advertised.[[12]](#footnote-11) It may also prevent advertising of practitioner-only products to these practitioners, and impact on the education that can be provided to practitioners by practitioner-only companies. This stands to have a significant negative impact on the ability of practitioners to practice safely and effectively, and to benefit from the continuing education provided by complementary medicine companies.
* In effect, the proposed changes mean that Naturopaths and Western Herbal Medicine Practitioners would all be treated as if they were consumers.

# The Criteria for Regulation

Whether a profession is regulated depends on it meeting the (six) criteria adopted by the Australian Health Ministers Advisory Council (AHMAC) in 1995. Importantly, regulation is not about recognition of a profession; its primarily concern is in protecting the public from poorly or untrained, unscrupulous or fraudulent practitioners.

The Lin report, which was commissioned by the Victorian state government in November 2005 on *The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine*, found strong reason for the statutory regulation of these professions, and unequivocally stated that both fulfil the AHMAC criteria.[[13]](#footnote-12)

In fact, Naturopaths and Herbalists are the only professions for which a formal assessment has been made demonstrating that they should be regulated, who are not currently included in the scheme.

## The AHMAC Criteria

* Is it appropriate for Health Ministers to exercise responsibility for regulating the occupation in question, or does the occupation more appropriately fall within the domain of another ministry?
* Do the activities of the occupation pose a significant risk of harm to the health and safety of the public?
* Do existing regulatory or other mechanisms fail to address health and safety issues?
* Is it possible to implement for the occupation in question?
* Is it practical to implement for the occupation in question?
* Do the benefits to the public of regulation clearly outweigh the potential negative impact of such regulation?

# What the CHC is calling for

As outlined above, the CHC believes there are a number of recent changes that seriously threaten the rights and abilities of non-registered complementary medicine practitioners who are prescribing complementary medicines, using health fund rebates and making use of IVDD's to improve and enhance the quality of their clinical care.

As the peak body representing the complementary medicines industry, we believe that this poses a threat, not just to the practitioners, but also the viability of a thriving industry as a whole; and that ultimately, that the proposed reforms have the potential to reduce the options available to consumers in caring for their health.

The CHC is proposing to take action to lobby the government on the inclusion of Naturopathy and Western Herbal Medicine Practitioners in the AHPRA schedule and welcomes the support of all professional associations and individual practitioners who agree with this position.

**The CHC thus seeks to gain support from all professional and industry stakeholders in lobbying to have Statutory Registration of Naturopaths and Western Herbal Medicine Practitioners added to the agenda of Ministers at (the) COAG, in order to protect Australian’s Health and Rights from the inherent risks of the Naturopathic and Western Herbal Medicine health system as it stands, and to protect Naturopaths, Western Herbal Medicine Practitioners and the complementary medicine industry’s viability as a whole.**

**To register your interest or support, please contact Shanna Choudhary at** [**shanna.choudhary@chc.org.au**](mailto:shanna.choudhary@chc.org.au) **or visit** [**http://chc.org.au/Registration-of-Practitioners**](http://chc.org.au/Registration-of-Practitioners)**.**

1. Transition period to allow time for IVDs that are currently listed or registered on the ARTG, or that are currently exempt from entry, to be included on the ARTG in accordance with the requirements of the new framework, is 4 years.

   IVDs that are currently listed, registered or exempt will be required to become included IVDs, or to have an effective application for inclusion with the TGA prior to 1 July 2014 in order to maintain continuous legal supply. Until an IVD transitions to the new framework, Chapter 3 of the Therapeutic Goods Act 1989 and the Therapeutic Goods Regulations 1990 will continue to apply.

   Any new IVDs introduced to the Australian market after commencement of the new framework on 1 July 2010 must be included on the ARTG prior to legal supply. < <http://www.tga.gov.au/industry/ivd-framework-overview.htm#topofpage>> [↑](#footnote-ref-1)
2. **The Review of the Australian Government Rebate on Private Health Insurance for Natural Therapies <**<http://health.gov.au/internet/main/publishing.nsf/Content/phi-natural-therapies>> [↑](#footnote-ref-2)
3. Section 42AA, Therapeutic Goods Advertising Code <<http://www.tga.gov.au/industry/advertising-schedule1-explained.htm#att1>> [↑](#footnote-ref-3)
4. TGA Consultation Regulation Impact Statement, Regulating the advertising of therapeutic goods to the general public

   Version 4.6, May 2013 <<http://www.tga.gov.au/pdf/consult/consult-advertising-ris-130531.pdf>> page 28 [↑](#footnote-ref-4)
5. <http://www.abs.gov.au/ausstats/abs@.nsf/lookup/4102.0chapter5202008> [↑](#footnote-ref-5)
6. CAM is defined is defined by the National Centre for Complementary and Alternative Medicine as a group of diverse medical and health care systems, practices, and products that are not generally considered to be part of conventional medicine. Source http://nccam.nih.gov/health/whatiscam [↑](#footnote-ref-6)
7. Xue et al 2007, Complementary and Alternative Medicine Use in Australia: A Population-based Survey, Journal of Alternative and Complementary Medicine 2007, 13: 643-650. [↑](#footnote-ref-7)
8. For approved Naturopathic and Western Herbal Medicine practitioners. [↑](#endnote-ref-1)
9. <http://www.health.gov.au/internet/main/publishing.nsf/Content/currentissue-P12000015> [↑](#footnote-ref-8)
10. <http://www.tga.gov.au/industry/advertising-framework-120529.htm> [↑](#footnote-ref-9)
11. http://www.comlaw.gov.au/Details/C2013C00132 [↑](#footnote-ref-10)
12. these provisions allow for the dissemination of new research to professional communities, so they do not have a lag time of years to wait for results (as often required for public dissemination) [↑](#footnote-ref-11)
13. Lin V et al. The Practice and Regulatory Requirements of Naturopathy and Western Herbal Medicine p20, La Trobe University School of Public Health, 2005 [↑](#footnote-ref-12)