

HERBALISTS AND REGULATION: A DOUBLE-EDGED SWORD

By Richard DeSylva RH DNM

The controversy swirling around the possible regulation of herbalists in Great Britain is indeed a worrisome matter. Understandably, there are those herbalists in England who see regulation as desirable, with its offer of society's recognition if not authentication as a legitimate modality. Perhaps unspoken, but at least tacitly acknowledged, is the issue of regulation according to a more rigid scientific model, hoping to rid the profession of those deemed lacking in credibility, due to their more 'traditional' approach.

However, there is the very real possibility that along with this potential accord, comes the likelihood of only being able to use regulated herbal medicines in their practice, and the elimination of those herbal formulae that don't quite make the grade...a regretful turn of events were that to happen.

Equally, there are those herbal practitioners who do not want formal regulation, but would prefer a form of self-regulation—one that would see a governing body, e.g. a Board of Governors, College of Herbalists, etc. overseeing the practice of their members. Each model has its benefits as well as its downsides—with any prospect of regulation perhaps to be decided more by the actual number of practitioners, coupled with their historical record of success or failure. This would then present a plausible scenario to the regulatory authorities for any 'yay' or 'nay' decision.

Here in Canada (& possibly the USA) herbalists—by reason of their fledgling numbers, have more or less flown under the radar. There has been a tacit acknowledgement that "...yes, we know you're there, but as long as you don't do any harm, we'll ignore you..." This is what happened back in 1984 in Ontario, thanks to the HEALTH PROFESSIONS REGULATION REVIEW. At the end of the Review, the Ontario Herbalist Association (OHA) was advised that only if our member base reached the *critical mass* of at least 500 members, would there be any consideration of imposing regulation...and with those numbers came the *perceived* increased risk of harm to the public.

In 2005, a number of herbalists from across Canada came together to form the CANADIAN COUNCIL OF HERBALIST ASSOCIATIONS (CCHA). This group has over the years met on a regular basis to help refine and define the practice of herbalism in Canada. Thus far, this group has established national standards of practice, codes of ethics, and disciplinary procedures that are at the point of review by the provincial associations. It is anticipated that although the national Council does not have the legal right to enforce such standards, that the various provincial bodies will adopt them as written. Further, in 2007, the CCHA in their annual bi-lateral meetings with the Natural Health Products Directorate (NHPD) won an exemption for herbalists to not have to comply with the new regulations governing the manufacture and sale of natural health products (NHPs). As long as the products they make are for the exclusive use between the herbalist and their clients, or for the use of another herbalist and *their* clients, the onerous and costly regulations do not apply.

This is a major ‘win’ for herbalists across Canada, and to ensure clarity in this matter, apply to Herbalists who are members of the various provincial bodies; it will not apply to anyone who decides to hang out a shingle and call themselves a herbalist, or who takes it upon themselves to produce products and sell them publicly.

How does all this apply to the issue of regulation? In that standards are being established, and that dialog is ongoing with the federal—and in a number of cases, provincial authorities, herbalists are slowly establishing themselves as a player in the field of complementary or alternative medicine. While this moves the marker slowly towards the matter of regulation, it will establish in the eyes of the regulatory authorities that we are responsible participants, acting as guardians of both themselves, but also the public. Given that the numbers of the provincial organizations are slowly creeping upward, it would make sense that regulation would only happen when the ‘critical mass’ has been reached; until then, hopefully, the authorities will leave well enough alone, trusting that we are managing our affairs in a proper manner.

While this scenario may well play out in our favour, there is another issue that confronts herbalists here in Canada...and that is the matter of other complementary disciplines seeking to encroach upon our ‘turf’. In the past few years, the OHA has defended our area of expertise from other recently regulated disciplines: one who wanted to capture the title ‘herbalist’ for themselves; another wanted to portray themselves as the exclusive purveyors of herbal therapies. Both efforts were defeated by the OHA in their dialog with the provincial Ministry of Health. It thus goes without saying, that to the extent herbalists here in Canada can establish themselves as knowledgeable, skilled and trustworthy participants, regulation—let alone elimination of the discipline will not happen any time soon. It is worth noting as well, that herbalists do not want to represent themselves as primary care practitioners; we are more than happy to refer to those disciplines capable of dealing with issues outside of our area of expertise.

Our aim is to simply practice the traditional body of knowledge that is embodied in the art & science of herbalism—nothing more, nothing less.

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