

**SUBMISSION CONCERNING**  
**SCHEDULE P OF BILL 171**  
***NATUROPATHY AND HOMEOPATHY ACT, 2006***

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## **SECTION 1: BACKGROUND**

The Canadian Council of Herbalist Associations (CCHA) is the national association representing the interests of herbalists in Canada. In addition to negotiating on behalf of herbal practitioners at the federal level, our mandate is also to provide support for our member associations in matters affecting the practice of herbalism within their respective jurisdictions.

Herbalism is the oldest healing profession. There are respected traditions of herbal medicine in all cultures in all parts of the world. Many of these systems of healing are currently represented and practiced in Ontario and the rest of Canada, including Western herbalism which has roots in both European and Native American traditions.

Herbalists play a very important role in helping to improve the health and well-being of the citizens of Ontario and the rest of Canada. Herbal practitioners provide assistance to their clients on how to implement a more healthy diet and lifestyle. Herbalism is generally more effective than conventional medicine in both the prevention and treatment of most chronic health conditions, while minimizing or eliminating the use of expensive pharmaceutical medications. As herbalists work outside of the publicly funded health care system, they make a major contribution to the reduction of the public cost of health care in Ontario. In addition, no herbalist has been convicted of having caused harm to any client as a result of the practice of herbalism in Ontario, or Canada. This is a very important statistic given the high physical, emotional and financial cost of iatrogenic illness and death in this country due to both medical mistakes and the side-effects of appropriately administered medical procedures.

A regulatory regime is currently being developed in Ontario and British Columbia for the regulation of Traditional Chinese medicine (TCM), a culturally-based healing system within which herbalism plays a major role. With the exception of TCM practitioners in the above noted jurisdictions, herbal practitioners in general are not currently regulated in any province or territory within Canada. Nevertheless, herbalists continue to practice within a self-regulatory model. Provincial associations are active in Ontario, Nova Scotia, Quebec, Saskatchewan, Alberta and British Columbia. These associations have established appropriate standards for the practice of herbalism including educational standards, codes of ethics and practice, continuing education requirements and disciplinary procedures. The CCHA has an important role coordinating efforts to create uniform standards across Canada, providing a venue through which the more established associations can help newer associations to develop standards, and to help with the formation of associations in jurisdictions where they do not yet exist. Although the 'herbalist' title is not yet protected by provincial regulation, provincial associations address this by allowing their professional

members to use a specific designation (e.g. Registered Herbalist) and maintaining lists of members in good standing so that the public can determine which practitioners in their province meet the standards of the association. The Ontario Herbalists Association (OHA) is the association representing herbalists in Ontario. It is one of the oldest and most established herbalist associations in Canada.

## **SECTION 2: FEDERAL REGULATIONS**

Herbal products in Canada are regulated as natural health products (NHPs) by the Natural Health Products Directorate (NHPD) of Health Canada under the Natural Health Products Regulations, which came into effect on January 1, 2004. The CCHA has been actively involved in the development of these regulations. In 1996 and 1997 the CCHA initiated the political campaign that ultimately led to the creation of the NHP regulations and the NHPD. Members of the CCHA have sat on the Expert Advisory Committee on Herbs and Botanical Preparations (1986 and 1993), the Advisory Panel on Natural Health Products (1998), the Office of Natural Health Products Transition Team (2000), and the Expert Advisory Committee on Natural Health Products (ongoing). Herbalists are recognized by Health Canada as important stakeholders and experts on herbal products and botanical medicine, and the CCHA is being consulted by the NHPD on an ongoing basis on issues concerning the development and implementation of the NHP regulations. It is explicitly stated in both *Natural Health Products: A New Vision*, the report of the federal Standing Committee on Health (1998) upon which the NHP regulations are largely based, and in the Natural Health Products Regulations themselves that the regulations are not intended to interfere with the ability of herbalists to continue to practice botanical medicine. The CCHA has since negotiated exemptions that ensure that the traditional practices of herbalists are not affected by the NHP regulations and herbal practitioners will continue to have access to the herbs that are used within their respective traditions, regardless of how they are regulated for over-the-counter use.

## **SECTION 3: BILL 171**

### **3.1 General Comments**

This submission specifically addresses Schedule P of Bill 171, the *Naturopathy and Homeopathy Act, 2006*. The CCHA does not oppose the general intent of this Act, the regulation of naturopaths and homeopaths in Ontario. However, the CCHA wishes to ensure that the Act does not in any way infringe upon the right of herbalists or any other complementary and alternative medical (CAM) practitioners to continue to practice in Ontario.

### **3.2 Section 8 of the *Naturopathy and Homeopathy Act, 2006***

Section 8 of this Act concerns the protection of the titles and practice of naturopathy and homeopathy. It is intended to ensure that no person may misrepresent themselves as members of either of these professions by using the title ‘naturopath’ or ‘homeopath’ or in any way representing themselves as qualified to practice as a naturopath or homeopath. However, this section in its current form goes way beyond this intent. Section 8 (3) states the following:

No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a naturopath or homeopath or in a specialty of naturopathy or homeopathy.

Section 8 (3) explicitly states that no person other than a member of the College of Naturopaths and Homeopaths of Ontario may “hold himself or herself out as a person who is qualified to practise ... in a specialty of naturopathy or homeopathy.” This is not a concern with respect to homeopaths, who specialize in a single therapeutic modality. However, it is of significant concern with respect to naturopaths who are generalists rather than specialists. Naturopathic education and practice incorporates a variety of different therapeutic modalities.

The “specialties” of naturopathy are not stated in the Act. They will be determined by the College Council. However, the “specialties” of naturopathy are listed by the Ontario Association of Naturopathic Doctors as including: clinical nutrition, botanical/herbal medicine, homeopathy, physical/manipulative therapy, Asian medicine and acupuncture, and lifestyle counseling. Presumably the College Council will also establish these therapeutic modalities as “specialties” of naturopathy as they are integral to naturopathic practice.

Homeopaths, chiropractors, registered massage therapists, traditional Chinese medicine practitioners and acupuncturists will not be affected by Section 8 (3) as their right to practice is protected by their own Acts. However, this section will have a detrimental effect on other CAM practitioners. Herbalists practice botanical/herbal medicine and lifestyle counseling. Many, depending on their training, also practice clinical nutrition. Nutritionists also practice clinical nutrition and lifestyle counseling.

It should also be noted that naturopaths, due to the generalist nature of their education and practice, do not receive the same level of depth of education and training as do specialists in any of the therapeutic modalities included among the naturopathic “specialties”. Thus, TCM practitioners receive more in-depth education and training in Asian medicine and acupuncture, homeopaths in homeopathy, nutritionists in clinical nutrition, herbalists in botanical/herbal medicine, etc. Naturopaths can not qualify as professional

members of the OHA without additional training as naturopathic education does not provide sufficient training in botanical/herbal medicine to allow naturopaths to practice as herbalists as defined by the OHA.

If Bill 171 is passed without an amendment to Section 8 (3) of the *Naturopathy and Homeopathy Act, 2006*, it will become illegal for herbalists, nutritionists and possibly other CAM practitioners to continue to practice in Ontario as they would be practicing “specialties” of naturopathy. These practitioners will be forced out of business, as will schools that provide training, and other businesses that are related to these professions. Some practitioners would likely continue to practice underground and it will no longer be possible to ensure the quality of services provided. In addition, the important contribution that these professionals make to the health and well-being of the citizens of Ontario will be lost to the detriment of the public and the rising cost of publicly funded health care.

### **Recommendation 1:**

**In order to ensure that the *Naturopathy and Homeopathy Act, 2006* does not infringe upon the right of CAM practitioners other than naturopaths and homeopaths to continue to practice in Ontario, the CCHA recommends that Section 8 (3) be amended as follows:**

**No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a naturopath or homeopath.**

This amendment does not in any way reduce the ability of the Act to protect the titles ‘naturopath’ and ‘homeopath’ and prevent unqualified individuals from representing themselves as practitioners of these professions. Similarly, this amendment does not interfere with the ability of College Council to define the specialties of naturopathy and homeopathy. However, this amendment does prevent the College of Naturopaths and Homeopaths from having jurisdiction over other CAM practitioners who practice specialties of naturopathy and homeopathy under different titles, such as herbalists and nutritionists.

### **3.3 Section 14 of the Naturopathy and Homeopathy Act, 2006**

Section 14 (1) states the following:

*The Drugless Practitioners Act* is repealed.

The naturopaths are currently regulated under the *Drugless Practitioners Act*. If Bill 171 is passed, it is clearly the view of the current Ontario government that this Act is obsolete as there will no longer be any health professions regulated under the Act. Although this is not a major concern to the CCHA, there seems

to be a general trend towards the regulation of CAM practitioners in Ontario and the rest of Canada at this time. Currently, the majority of CAM professions practicing in Ontario have neither the numbers nor the resources to be regulated under the *Regulated Health Professions Act, 1991* (RHPA). Although the *Drugless Practitioners Act* does not afford the same level of regulatory authority as the RHPA, it is the view of the CCHA that the Minister of Health and Long-Term Care should reconsider repealing this Act as it may be an appropriate venue for regulating other CAM professions in the interim until they are able to be regulated under the RHPA.

Should the Minister of Health and Long-Term Care choose to reconsider the repeal of the *Drugless Practitioners Act*, it is not recommended that the title ‘drugless therapist’ be protected under the *Naturopathy and Homeopathy Act, 2006*.

## **Recommendation 2:**

**The CCHA recommends that Section 14 (1) of the *Naturopathy and Homeopathy Act, 2006*, be repealed and Section 8 (1) be amended as follows:**

**No person other than a member shall use the title “naturopath”, a variation or abbreviation or equivalent in another language.**

**The CCHA also recommends that the Minister of Health and Long-Term Care request that the Health Professions Regulatory Advisory Council prepare a report on the feasibility of regulating the currently unregulated CAM professions under the *Drugless Practitioners Act*.**

### **3.4 Controlled Acts**

The creation of the *Naturopathy and Homeopathy Act, 2006*, has in part followed from the recommendations of the Health Professions Regulatory Advisory Council (HPRAC) from their reports *Naturopathy* (2001) and *New Directions* (2006). In their report on naturopathy, HPRAC recommended the creation of the following controlled act:

Prescribing, dispensing, selling and/or compounding natural health products.

-And-

Prescribing, dispensing, selling and/or compounding restricted natural health products.

It is not clear whether one or both of these recommendations were intended, as both wordings were used. There is a similar ambiguity in controlled acts recommended in the HPRAC report on *Traditional Chinese*

*Medicine and Acupuncture* (2001).

Although neither the *Naturopathy and Homeopathy Act, 2006*, nor the *Traditional Chinese Medicine Act, 2005*, address the creation of specific controlled acts, the CCHA recognizes that there may be stakeholders who will make submissions to the Standing Committee on Social Policy requesting the inclusion of similar controlled acts in the *Naturopathy and Homeopathy Act, 2006*, on the authority of the HPRAC reports. The creation of any such controlled acts would have a profound negative impact on the ability of herbalists to continue to practice. Prescribing, dispensing, selling and compounding herbal products are integral to the practice of botanical medicine. Both herbalists and TCM practitioners receive extensive training in these practices, whereas compounding is not an important part of the naturopathic education. In recognition of this, the NHPD compounding and importation policies specifically exempt these practices from the NHP regulations when practiced within the context of a practitioner-client relationship in order to allow herbalists and other CAM practitioners to be able to continue these practices. If a controlled act were to be introduced regarding the prescribing, dispensing, selling and compounding of *all* NHPs, it would be virtually impossible for herbalists to continue to practice. If a controlled act were to be introduced regarding the prescribing, dispensing, selling and compounding of *restricted* NHPs, should such a product category be created by the NHPD, it would seriously restrict the ability of herbalists to continue to practice.

### **Recommendation 3:**

**The CCHA recommends that the Minister of Health and Long-Term Care not introduce any controlled acts into the *Naturopathy and Homeopathy Act, 2006*, and that the College Councils of Traditional Chinese Medicine, and Naturopathy and Homeopathy (once created) not be given the authority to create any controlled acts regarding the prescribing, dispensing, selling and compounding of natural health products, restricted or otherwise.**

### **SECTION 4: CONSULTATION**

The *Naturopathy and Homeopathy Act, 2006*, if passed without amendments will have a significant negative impact on the practice of CAM in Ontario. Yet, with the exception of the naturopaths and homeopaths themselves, outside of the current consultation neither HPRAC nor the Minister of Health and Long-Term Care have consulted with any of the other CAM professions potentially affected by this legislation. The situation was similar with the drafting of the *Traditional Chinese Medicine Act, 2005*. This trend has continued with the current consultation. This legislation will virtually eliminate the practice of

herbalism in Ontario if passed without amendments. It is therefore of critical importance that the associations representing herbalists are heard. However, both the CCHA and the OHA were denied the ability to make presentations in person before the Standing Committee on Social Policy, for reasons not disclosed. The CCHA would like to remind the Standing Committee and the Minister that there is a considerable amount of overlap between the practices of the various CAM professions and that, whenever there are any consultations, or the drafting of policies or legislation regarding the practice of CAM in Ontario, it is essential that the Minister, HPRAC or any other department or committee involved consult thoroughly with the representatives of all CAM professions.

**Recommendation 4:**

**The CCHA recommends that the Ministry of Health and Long-Term Care adopt a policy of recognition of the representatives of CAM professions as important stakeholder groups, and consult with them at all stages in the creation of policies or legislation involving the regulation of any individual CAM profession.**

**SECTION 5: CONCLUSION**

If Schedule P of Bill 171, the *Naturopathy and Homeopathy Act, 2006*, is passed without amendments, it will become impossible for herbalists, nutritionists and other unregulated CAM practitioners who practice “specialties” of naturopathy to continue to practice in Ontario. The majority of CAM practitioners are not regulated under the RHPA, but instead practice under various self-regulatory models. Nevertheless, both historically and in the present, CAM professions make an important contribution to the health and well-being of the citizens of Ontario, and to reducing the cost of the publicly funded health care system. The citizens of Ontario have also made it clear in every study concerning the issue of health care preferences, that they wish to continue to have access to these services. It is therefore essential that appropriate amendments be made to the *Naturopathy and Homeopathy Act, 2006*, to ensure that the Act does not interfere with the ability of other CAM professions to continue to practice.

Although the practitioners of CAM have not demonstrated any threat of harm to the citizens of Ontario, if the Minister of Health and Long-Term Care is intent upon the regulation of these professions, the RHPA is not the appropriate regulatory regime to achieve this end at the current time. As a result, the Minister may wish to consider maintaining the *Drugless Practitioners Act* for this purpose as an interim measure.

## **APPENDIX A: SUMMARY OF CCHA RECOMMENDATIONS**

### **Recommendation 1: Concerning Section 8 of the *Naturopathy and Homeopathy Act, 2006***

In order to ensure that the *Naturopathy and Homeopathy Act, 2006* does not infringe upon the right of CAM practitioners other than naturopaths and homeopaths to continue to practice in Ontario, the CCHA recommends that Section 8 (3) be amended as follows:

No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a naturopath or homeopath.

### **Recommendation 2: Concerning the *Drugless Practitioners Act***

The CCHA recommends that Section 14 (1) of the *Naturopathy and Homeopathy Act, 2006*, be repealed and Section 8 (1) be amended as follows:

No person other than a member shall use the title “naturopath”, a variation or abbreviation or equivalent in another language.

The CCHA also recommends that the Minister of Health and Long-Term Care request that the Health Professions Regulatory Advisory Council prepare a report on the feasibility of regulating the currently unregulated CAM professions under the *Drugless Practitioners Act*.

### **Recommendation 3: Concerning Controlled Acts**

The CCHA recommends that the Minister of Health and Long-Term Care not introduce any controlled acts into the *Naturopathy and Homeopathy Act, 2006*, and that the College Councils of Traditional Chinese Medicine, and Naturopathy and Homeopathy (once created) not be given the authority to create any controlled acts regarding the prescribing, dispensing, selling and compounding of natural health products, restricted or otherwise.

### **Recommendation 4: Concerning Consultation with Stakeholder Groups**

The CCHA recommends that the Ministry of Health and Long-Term Care adopt a policy of recognition of the representatives of CAM professions as important stakeholder groups, and consult with them at all stages in the creation of policies or legislation involving the regulation of any individual CAM profession.

## **APPENDIX B: LIST OF ABBREVIATIONS USED IN THIS DOCUMENT**

CAM	Complementary and Alternative Medicine
CCHA	Canadian Council of Herbalist Associations
HPRAC	Health Professions Regulatory Advisory Council
NHP	Natural Health Product
NHPD	Natural Health Products Directorate of Health Canada
OHA	Ontario Herbalists Association
RHPA	Regulated Health Professions Act, 1991
TCM	Traditional Chinese Medicine