

21 February 2010

Re: The legal situation for the practice of homeopathy in Japan



Introduction

We are sending you this letter as we understand that the Government of Japan is currently considering the introduction of legislation and/or regulation of the practice of homeopathy in your country. We will hereby present to you our main points of concern, as well as an overview of existing legislation in countries in Europe.

The European Central Council of Homeopaths (ECCH)

The European Central Council of Homeopaths (ECCH) is a professional platform representing a membership of professional associations of homeopaths in 24 countries in Europe. This gives us a good overview and insight into the legislation, regulation and education of homeopaths across Europe. ECCH enjoys NGO Participative Status with the Council of Europe, and is a member of the Brussels-based European Commission funded European Public Health Alliance (EPHA).

The Japanese Homoeopathic Medical Association (JPHMA) is, together with another 31 associations in Australia, New Zealand, Canada, the United States of America and Europe, a full member of the International Council for Homeopathy (ICH). These members all represent associations of homeopaths practising homeopathy which meet our standards and requirements for professional association membership.

The practice of homeopathy by healthcare practitioners and other professionals

In the majority of European countries, homeopathy has for decades been practised both by homeopaths who are statutorily regulated healthcare practitioners and by those who are not (ECCH 2009). An increasing number of national Governments have over recent years positively regulated the practice of homeopathy and other CAM therapies. This involves legalising the practice of homeopathy for those practitioners who are statutorily regulated healthcare practitioners, as well as those who are not, so that they are legally entitled to practise. Examples of such countries include Belgium, Iceland, Liechtenstein, the Netherlands, Norway and Portugal (see appendix A).

We strongly recommend that legislation in your country allows for patients to have the freedom to choose homeopathic treatment from well-trained and well-regulated homeopaths and healthcare practitioners who meet the education and registration standards of their national registering body (see appendix B). This would also be in line with the Council of Europe's 1999 Resolution 1206 on Non-conventional Medicines, which states that:

“The Assembly believes that in the future alternative or complementary forms of medicine could be practised by doctors of conventional medicine as well as by any well-trained practitioner of non-conventional medicine (a patient could consult one or the other, either upon referral by his or her family doctor or of his or her free will), should ethical principals prevail.”

Moreover, in their strategic policy report entitled “Traditional Medicine Strategy 2002-2005” the **World Health Organization** (WHO) recommended (page 26): Key needs in promoting sound use of TM/CAM by providers and consumers should include:

At national level:

- Training guidelines for most commonly used TM/CAM therapies
- Strengthened and increased organisation of TM/CAM providers
- Strengthened cooperation between TM/CAM medicine providers and allopathic medicine practitioners
- Reliable information for consumers on proper use of TM/ CAM therapies and products

We would like to point out here that the WHO did not recommend that all TM/CAM should be practised by medical doctors. Moreover, the Japanese Homeopathic Medical Association (JPHMA) has already for several years introduced training guidelines for the education of homeopaths as well as a number of other measures to ensure the effective and safe treatment of their patients.

The safety of homeopathy

The safety of the practice of homeopathy has been considered by a number of researchers. The European Central Council of Homeopaths (ECCH) has developed a report which summarises the findings, which include:

- Homeopathic medicinal products are safe to use as they are highly diluted and therefore can not cause any toxicologically harmful effects on human beings
- Research evidence on reported adverse events and adverse drug reactions also show that homeopathic medicinal products are safe to use
- Cases of unethical practice or malpractice by practitioners are extremely rare

In your efforts to introduce regulation of CAM practitioners we would like to point out that it is an understood principle that homeopathy practitioners do not carry out medical diagnosis (see appendix B). Homeopaths rely on each patient they treat having access to the services of a qualified medical doctor for this purpose and for conventional treatment when it is needed. Homeopaths are trained to know when it is necessary to refer patients to medical doctors. The full ECCH safety report may be found and downloaded at www.homeopathy-ecch.eu

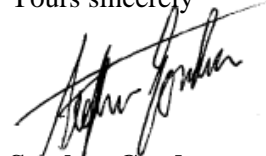
Involve the JPHMA in your national consultation process

We would strongly encourage the Japanese Government to involve the Japanese Homeopathic Medical Association (JPHMA) in its process of considering the establishment of legislation and regulation of the practice of homeopathy in Japan, as they have introduced high quality standards for the practice of homeopathy, and as they have also gained membership of the International Council for Homeopathy (ICH).

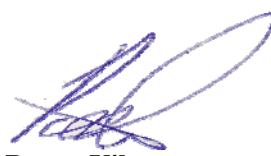
For further information we would like to refer you to attachments A and B.

We would be happy to provide you with any further necessary information.

Yours sincerely



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Appendix A

European and national legislation and regulation

1. The Council of Europe's CAM Resolution

In 1999 the Council of Europe published an important position paper on CAM. Reference: A European Approach to Non-conventional Medicines Resolution 1206 1999. The resolutions state that:

“The Assembly believes that the best guarantee for patients lies in a properly trained profession, which is aware of its limitations, has a system of ethics and self-regulation and is also subject to outside control. It would be unrealistic to wish to prevent the emergence of new professions in the health sector. The regulations that currently exist in certain European countries on the practice of one or other form of non-conventional medicine open the way for progress. The Assembly calls on the member states to model their approach on their neighbours' experiments and, whenever possible, to co-ordinate their position with regard to these medicines.”

“The Assembly believes that in the future alternative or complementary forms of medicine could be practised by doctors of conventional medicine as well as by any well-trained practitioner of non-conventional medicine (a patient could consult one or the other, either upon referral by his or her family doctor or of his or her free will), should ethical principals prevail.”

2. Homeopaths in Germany have been recognised since 1939

In Germany practitioners of homeopathy who are not medical doctors have been regulated by the Government since 1939 through the provisions of the Heilpraktikergesetz law. Reference: Gesetz über die berufsmäßige Ausübung der Heilkunde ohne Bestallung (Heilpraktikergesetz) vom 17.02.1939 (RGL. I S.251), geändert durch Art. 53 des EGStGB vom 02.03.1974 (BGB1. I S.469).

3. Almost 20 years of positive regulation of homeopathy in the Netherlands

In 1993 the Dutch Government changed its laws to permit the practice of CAM by practitioners who are not doctors where this had previously been illegal. Homeopathy can be practised both by homeopaths and medical doctors. Reference: Beroepen in de Individuele Gezondheidszorg.

4. Homeopathy legalised in Belgium since 2000

In 2000 the Belgian Government changed its laws to recognise the practice of homeopathy, acupuncture, osteopathy and chiropractic where this had previously been illegal. Homeopathy can be practised both by homeopaths and medical doctors. Committees are in the process of being established in order to register and regulate practitioners of these therapies. The Liga Homeopathica Classica (LHC), the Belgian homeopathic ECCH/ICH member association, was officially recognised by the Belgian Ministry of Health in 2002 and the right of homeopaths who are members of the LHC was confirmed in a Royal decision published in February 2007.

5. Homeopathy legalised in Portugal in 2003

In 2003 the Portuguese Parliament introduced a new law that recognises the practice of homeopathy and five other CAM therapies. Homeopathy can be practised both by homeopaths and medical doctors. The new law enshrines the right of Portuguese citizens to freely choose the particular therapy they wish while also setting out the basis for the regulation of the practitioners who may practise these therapies as independent health care professionals. References: Project of law N° 263/IX for framing the base pf the Non-Conventional Medicines. Project of law N° 27/IX Legal procedures of the Non-Conventional Therapies. Law 24/2003, Decree 28/2006.

6. CAM law and public register in Norway from 2004

A new law was put into action from 1 January 2004 which clearly permits the practice of alternative therapies by someone who is not a statutorily regulated healthcare practitioner. An official register for practitioners of alternative medicine was established on 1 June 2004. The register is voluntary and the professions are self-regulated. Homeopathy can be practised both by homeopaths and healthcare practitioners. References: Lov om alternativ behandling av sykdom mv. Register for alternative behandlere at www.brreg.no. The Government in Iceland in 2005 introduced regulatory legislation practically identical to the Norwegian law.

7. CAM register in Denmark from 2004

An official register for practitioners of alternative medicine was established on 1 June 2004. The register is voluntary and the professions are self-regulated. Minimum requirements for medical training have been set. Homeopathy can be practised both by homeopaths and medical doctors. Reference: B 47 (som vedtaget): Forslag til folketingsbeslutning om en registreringsordning for alternative behandlere. Vedtaget af Folketinget ved 2. (sidste) behandling den 10. april 2003 at http://www.ft.dk/Samling/20021/beslutningsforslag_oversigtsformat/B47.htm.

8. United Kingdom Government and House of Lords agree homeopathy can be practised by both homeopaths and medical doctors

The United Kingdom Government has recommended acupuncturists and herbal medicine practitioners to achieve statutory self-regulation for their professions, and homeopaths were recommended to seriously consider achieving statutory self-regulation in the future. The Government's recommendations support the UK House of Lords Science and Technology Committee report that was published in 2000. Homeopathy can be practised both by homeopaths and medical doctors.

In the UK House of Lords Science and Technology Committee report on CAM it made recommendations for investment in research into CAM, the improved education and regulation of CAM practitioners, greater awareness amongst doctors of CAM, the inclusion of well proved and well-regulated CAM practices in the National Health Service. References: House of Lords, Science and Technology – Sixth Report, November 2000.

9. Irish Government introduces positive regulation of homeopaths

The Irish Government is in the process of positively regulating the homeopathy profession and the ECCH/ICH Irish association has a seat on the formal advisory committee. References: Report on the Regulation of Practitioners of Complementary and Alternative Medicine in Ireland, Health Services Development Unit, 2002; Report of the National Working Group on the Regulation of Complementary Therapists to the Minister for Health and Children, December 2005.

10. Homeopathy is being practised by homeopaths in most EU Member States

In most EU Member States homeopathy and other CAM therapies are legally practised by practitioners who are not statutorily regulated healthcare practitioners. In France, one of the few countries where such practice has until now been banned, the Government has recently moved to positively regulate osteopaths and chiropractors where previously such practitioners practised illegally.

Appendix B

Homeopaths do not carry out medical diagnosis

As part of homeopaths' bounds of competence ECCH and its member associations are clear that individual practitioners should not carry out medical diagnosis. Homeopaths rely on each patient they treat having access to the services of a qualified medical doctor for this purpose and for conventional treatment when it is needed. This has been recognised in two ECCH policy documents (European Guidelines for Code of Ethics, November 2002; ECCH Bounds of Competence, May 2006). The following is stated in these two documents:

ECCH recognises that it is in the best interest of patients for homeopaths to be aware of their bounds of competence. This has been agreed in principle in ECCH's Guidelines for Codes of Ethics:

- ... the practitioner to recognise the boundaries of professional competence including:
 - being informed about national legal requirements for practice
 - recognising when referral to other healthcare practitioners is appropriate/necessary due to limitations in their own knowledge, skills and experience
 - being informed about the regulations concerning notifiable diseases and potentially problematic therapeutic situations (working within the legal framework of the country)

The responsibility for adjusting the dosage or stopping any medication not prescribed by the homeopath should be left to the patient in consultation with the prescribing practitioner. Homeopaths should also know when a patient's condition

- is beyond the limits of their clinical competence
- would benefit from another form of treatment
- shows symptoms which suggest an underlying condition which requires referral for investigation and medical diagnosis

The Education and Training of Homeopaths

As the Council of Europe pointed out in its 1999 resolution on non-conventional medicine (see attachment A), homeopathy is one of the four best established CAM therapies in Europe and these therapeutic disciplines can be practised by doctors of conventional medicine as well as by any well-trained practitioner of CAM. Patients could consult one or the other, either upon referral by his or her family doctor or of his or her free will, should ethical principles prevail.

The competency of practitioners should be ensured through their basic education and training. In order to ensure this essential competency, ECCH has developed guidelines for the education of homeopaths (European Guidelines for Homeopathic Education, June 2000).

Criteria should exist for the education and training of homeopaths, both for practitioners who have been fully trained in homeopathy as a discrete clinical discipline and for healthcare practitioners who undertake postgraduate homeopathy training. This is essential in order to ensure that these practitioners provide high quality effective and safe treatment for their patients.