



Australian Natural Therapists Association Ltd

Submission to

The Chair, Committee on the Health Care Complaints Commission
Parliament House
Macquarie Street
Sydney NSW 2000
chccc@parliament.nsw.gov.au

On

Inquiry into the Promotion of False or Misleading
Health-Related Information or Practices

29th January 2014

The Australian Natural Therapists Association Ltd (ANTA) thanks the Committee on the Health Care Complaints Commission for inviting ANTA to make a submission addressing the specific Terms of Reference of the Inquiry into the Promotion of False or Misleading Health-Related Information or Practices. This submission has been authorised by the National Council of the Australian Natural Therapists Association.

ANTA has confirmed with the Inquiry Manager the closing date for submissions shown in the letter as Friday 7th February 2013 is incorrect and the correct date is 7th February 2014.

Terms of Reference:

That the Committee on the Health Care Complaints Commission inquire into and report on possible measures to address the promotion of unscientific health-related information or practices which may be detrimental to individual or public health. The inquiry will focus on individuals who are not recognised health practitioners, and organisations that are not recognised health service providers.

The Committee will have particular regard to:

- (a) the publication and/or dissemination of false or misleading health-related information that may cause general community mistrust of, or anxiety toward, accepted medical practice;*
- (b) the publication and/or dissemination of information that encourages individuals or the public to unsafely refuse preventative health measures, medical treatments, or cures;*
- (c) the promotion of health-related activities and/or provision of treatment that departs from accepted medical practice which may be harmful to individual or public health;*
- (d) the adequacy of the powers of the Health Care Complaints Commission to investigate such organisations or individuals;*
- (e) the capacity, appropriateness, and effectiveness of the Health Care Complaints Commission to take enforcement action against such organisations or individuals; and*
- (f) any other related matter.*

It is not clear, and evidence has not been provided as to why an inquiry is taking place. The letter from the Chair of the Committee on the Health Care Complaints Commission dated the 5th December 2013 states:

“The inquiry has been prompted by concerns about the possible lack of proper oversight of individuals and organisations that publish and disseminate information of a purportedly medical nature that is not only contrary to accepted medical practice, but which may be harmful to individual or public health”

This statement is very broad and general and is not supported by any evidence or actual cases or events which have apparently raised some concerns. To fully understand the logic

and reasoning behind the above statement, evidence, actual incidences, factual information and the extent of the alleged information that is supposedly harmful should be made publicly available.

It is difficult to understand or comprehend the extent of this problem without any evidence or facts to support the case for an inquiry and/or extending the already considerable powers of the HCCC.

Without any evidence or facts it also difficult to understand why matters outlined in the Terms of Reference are not able to be adequately dealt with under Australian Consumer Law which contains sections covering false and misleading representations. If the concerns are adequately addressed under Australian Consumer Law, it raises the question of why additional powers are being considered for the HCCC. It is noted there is no reference made in this inquiry as to the inadequacy of Australian Consumer Law to deal with the matters raised.

ANTA calls on the Committee to be transparent, fair and equitable and to release to the public, the instances and evidence demonstrating the information released by individuals or organisations has been assessed and proven to be harmful to individual or public health. Information and details of who assessed the information as harmful should also be released to the public.

Based on the lack of information provided and to put this inquiry into perspective the following information has been extracted from the HCCC Annual Reports

Complaints received by HCCC (NSW)

Practitioner	Year	2008	2009	2010	2011	2012
Naturopaths		2	2	3	1	1
Herbalists		-	-	-	2	-
Homoeopaths		-	2	1	-	-
Nutritionists		-	-	-	-	-
Medical Doctors		1270	1263	1337	1488	1616

The evidence provided in HCCC Annual Reports shows the number of complaints received against medical doctors over the last 5 years has seen a 27% increase. The number of complaints against complementary medicine practitioners in the same period is minimal or non-existent.

ANTA believes the Committee on the Health Care Complaints Commission would be better advised to focus its attention and resources to address the large number of complaints against medical doctors and the continuing unfavourable trend in complaints against medical doctors.

ANTA has concerns in regard to the following contained in the Terms of Reference:

1st para: *“Information or practices which may be detrimental to individual or public health”*

It is not clear who will determine the information and practices which may be detrimental and the word *may* is open to subjectivity.

It should be clearly identified who the persons are (together with their qualifications and experience) that will determine if information or practices are detrimental.

A set of parameters based on objective and impartial principles and guidelines should be developed to identify information and practices requiring substantial evidence, facts and proof to be collected, reviewed and approved at a high level to ensure the information or practices are detrimental. It should be a requirement that qualified and experienced people prepare the evidence, facts and proof that shows information or practices are detrimental for review and approval at a higher level.

1st para: *The inquiry will focus on individuals who are not recognised health practitioners, and Organisations that are not recognised health service providers.*

“recognised” should be more clearly defined and expanded to also include established, accredited, accepted and acknowledged natural therapy and complementary medicine health care practitioners as well as natural therapy and complementary medicine professional associations and organisations that are established, accepted and acknowledged in fields other than medical practice.

Clause (a) of the Terms of Reference is restricted to false or misleading information leading to mistrust of medical practice. There has been a significant amount of false or misleading information published by John Dwyer, The Friends of Science and Sceptics organisation directed at natural therapies and complementary medicine over many years. The false and misleading information published without any supporting evidence or research has led to mistrust of accepted and acknowledged fields in natural therapies and complementary medicine.

The letter from the Chair, Committee on the Health Care Complaints Commission dated the 5th December 2013 states:

“The inquiry is not focused on the many alternative health remedies adopted as part of Responsible complementary health care.”

In view of this statement by the Chair, the Terms of Reference should be amended to include a clause that states:

“The inquiry is not focused on the many alternative health remedies adopted as part of Responsible complementary health care.”

In the interests of fairness, transparency and equity, ANTA requests that clause (a) of the Terms of Reference to be amended to read:

- (a) The publication and/or dissemination of false or misleading health-related information that may cause general community mistrust of, or anxiety

toward, accepted medical practice, accepted/recognised natural therapies and accepted/recognised complementary medicine practice.

Clause (b) of the Terms of Reference appears to be open ended and not restricted to medical practice and refers to “*preventative health measures*”. Natural Therapies and Complementary Medicine are focused on preventative health and this clause only needs slight modification to include all practices that focus on preventative health.

ANTA requests that clause (b) of the Terms of Reference be amended to read:

- (b) The publication and/or dissemination of information that encourages individuals or the public to unsafely refuse preventative health measures, natural therapies, complementary medicine, medical treatments, or cures;

In accordance with the above, ANTA requests that clause (c) be amended to read:

- (c) The promotion of health-related activities and/or provision of treatment that departs from accepted medical practice, natural therapies and complementary medicine practice which may be harmful to individuals or public health;

Clause (d) states: *The adequacy of the powers of the Health Care Complaints Commission to investigate such organisations or individuals;*

As stated above, without any supporting evidence or factual information it is unclear as to why the adequacy of the powers of the HCCC are being reviewed. It is also noted that information and evidence has not been provided to demonstrate the current powers of the HCCC are in any way inadequate. Before any powers of the HCCC are reviewed or considered for review, full details should be disclosed to the public outlining the details of events and evidence that demonstrates a review of HCCC powers are required or necessary.

Clause (e) states: *The capacity, appropriateness and effectiveness of the Health Care Complaints Commission to take enforcement action against such organisation or individuals*

Evidence or factual information has not been provided to show the current powers of the HCCC are inadequate in taking enforcement action against organisations or individuals. To enable a full and clear understanding of why clause (e) should be part of the terms of reference, there must be full and transparent disclosure of the facts, evidence and events that support the inclusion of clause (e) in the terms of reference.

Clause (f) states: *Any other related matter*

This clause is open ended and basically gives the Committee on the Health Care Complaints Commission a free hand to do all other things without any further justification or disclosure.

The terms of reference have not been justified with any supporting factual information, evidence or events and clause (c) should be removed from the terms of reference as it has not been justified as being relevant to the inquiry.

The Australian Natural Therapists Association is deeply concerned the inquiry and terms of reference have been developed and published without providing any justification, evidence, factual information or events detailing why the inquiry is necessary or that the current powers of the HCCC or Australian Consumer Law are inadequate.

The Australian Natural Therapists Association is also deeply concerned that an inquiry not supported by any evidence or factual information would take precedence over an inquiry into the large number of ever increasing complaints against medical practitioners.

The inquiry should be based on fairness, equity, transparency and accountability and the Australian Natural Therapists Association recommends the inquiry should not proceed until evidence, facts and full details are publicly disclosed and clearly demonstrate the current powers of the HCCC are inadequate and an inquiry and review are necessary.