Complementary medicines regulatory reform

Michael D Bollen and Susan D Whicker

AUSTRALIANS ARE BEING encouraged to take greater responsibility for their own health care. The concept of self-care is being promoted widely, including the recent paper released by the National Health and Hospitals Reform Commission[1] and, more commercially, by the Australian Self Medication Industry (ASMI).[2]

> Self-care in health refers to the activities individuals, families and communities undertake with the intention of enhancing health, preventing disease, limiting illness, and restoring health. These activities are derived from knowledge and skills from the pool of both professional and lay experience. They are undertaken by lay people on their own behalf, either separately or in participative collaboration with professionals.[3]

To enable Australian consumers to assume this responsibility, they should have the right to know and have access to the evidence-based status of any treatment they are considering, to enable them to make well-informed choices. This especially applies to medicines.

Currently, Australia has a risk-based two-tiered medicines classification system. Medicines are either "registered" or "listed". Registered medicines that make therapeutic claims and are considered high risk must meet nominated standards for quality, safety and demonstrated efficacy.[4] Listed medicines, which include most complementary medicines, are considered low risk, and while they must meet nominated standards for quality and safety, the manufacturer or sponsor is only required to certify "holding" of the evidence for efficacy. While this risk-based approach meets the government's regulatory control requirements, this system and its implications are poorly understood by consumers and many health professionals. The classification regarding whether a medicine is "registered" or "listed" must be printed on the label, either "Aust R" and a number for a registered product or "Aust L" for a listed product. The print is often so small relative to other information on the label, that prescribers and consumers may have no knowledge, let alone understanding, of the significance of the status indicated on the label.

By definition, manufacturers and sponsors should not make specific therapeutic claims for listed medicines. In addition, evidence for efficacy required to be "held" by the manufacturer or sponsor is based on a system agreed between the Therapeutic Goods Administration (TGA) and the complementary medicine industry which takes into account factors such as "traditional usage". The manner in which the evidence is held is not specified, and for many years, auditing of this evidence was only undertaken following a complaint.

Under the *Therapeutic Goods Act 1989* (Cwlth),[4] all products defined under Section F52 and regulated as a complementary medicines must be a therapeutic good consisting wholly or principally of one or more designated active ingredients (Therapeutic Goods Regulations 1990 — Schedule 14, Designated active ingredients[5]), each of which has a clearly established identity and a traditional use. Traditional use means use of the designated active ingredient that is well documented or otherwise established, according to the accumulated experience of many traditional

Michael D Bollen, AM, MB BS, FRACGP, FAICD, Chair, Complementary Medicines Implementation Reference Group, Therapeutic Goods Administration; Former Chair Expert Committee on Complementary Medicine in the Health System
Brighton, SA.

Susan D Whicker, PhD
Alta Mira Consulting, Adelaide, SA.

Correspondence: Dr Susan D Whicker, Alta Mira Consulting, PO Box 283, Belair, Adelaide, SA 5052.
sdwhicker@westnet.com.au

health care practitioners over an extended period, and that accords with well-established procedures of preparation, application and dosage.[4]

Concerns surrounding regulation of complementary medicines under the Therapeutic Goods Act[4] expressed by Harvey[6] in this issue of the Journal reinforce outcomes arising from the recent reviews, the majority of which have yet to be addressed and/or implemented through legislative amendments. The Expert Committee on Complementary Medicines in the Health System (Expert Committee), convened in 2003 after a review of the issues and circumstances surrounding the Pan Pharmaceuticals product recall, addressed the reform issues raised in this review article.[7] The government's very positive response to the majority of the Expert Committee's 49 recommendations was released in 2005.[8] However, actual implementation of many of the broad-reaching regulatory changes was delayed pending establishment of the joint Australia New Zealand Therapeutic Products Authority, and then postponed following withdrawal from the negotiations on the legislation necessary for the establishment of the joint trans-Tasman Authority by the New Zealand Government in 2007.[9]

Although these deferred legislative amendments are now anticipated to be introduced to the Australian Parliament later in 2009, the almost six-year delay has reduced considerably the intended outcomes for the quality use of complementary medicines by consumers, and the impact on the complementary medicines industry originally anticipated from the deliberations of the Expert Committee. In retrospect, perhaps the Expert Committee might have foreseen the need for a contingency plan which incorporated the prioritisation of individual recommendations against a strict implementation timeframe within the Australian health care setting.

Australia has a well-publicised National Medicines Policy (NMP)[10] and an associated National Strategy for Quality Use of Medicines (QUM),[11] both of which recognise complementary health care products or complementary medicines under the explanation of the term "medicine". The NMP enabled an immediate policy framework through which the Expert Committee could work to address their terms of reference on the examination of regulatory controls covering appropriate standards of quality, safety and efficacy, consumer information, education and training of health care practitioners, interactions between complementary and prescribed medicines, restrictions on advertising, and activities to promote an innovative, responsible and viable complementary medicines industry.[7] For this reason, we are puzzled by and cannot agree with one of Harvey's concluding statements in his current review: "It also represents a failure of Australian Medicines Policy."[6]

The failure around the National Medicines Policy (NMP) is not the policy itself, but that the Australian Government as a principal stakeholder, has not embraced sufficiently certain aspects of the NMP, and has failed to integrate the policy's principles into Commonwealth regulatory policies and strategies. This also represents a failure in the day-to-day roles and responsibilities of regulators, policy makers and bureaucrats to work with the objectives of the National Medicines Policy. Arguably, this shortcoming is reflected in the need for many of the reform proposals for complementary medicines regulatory policy proposed by Harvey.[6]

A further complication in the implementation of the Expert Committee's policy recommendations that recognised the need for greater attention to complementary medicines under the National Medicines Policy has been created by the Australian Government in their lengthy review of the National Medicines Policy. Outcomes to date from this review include the disbanding of both the Australian Pharmaceutical Advisory Council and the Pharmaceutical Health and Rational Use of Medicines Committee. This review effectively disabled key opinion leaders from progressing a broad range of relevant issues through expert and stakeholder committees. Although the announcement in early February 2009 of the completion of the review and the revised arrangements to support future implementation under the National Medicines Policy[12] provides a necessary strategy in the renewal of the enthusiasm and expertise

necessary to address and implement many of the issues around the reform of complementary medicine regulations, it has been a long time coming to fruition. In the interim, Harvey has sought to fill this void with frequent statements in both the public and academic media addressing the broad range of proposals raised in his current article. This has kept the topic of complementary medicines in the news. An example is the issue of the limited evidence available to support the claims made by the advertisers of listed weight loss products. Harvey has made this a frequent topic, and one which is now incorporated in the regulatory work plan of the TGA.[13]

While the Australian Government was finalising the National Medicines Policy review, the TGA released the draft *Guideline for levels and kinds of evidence for listed medicines with indications and claims for weight loss*.[14] These Guidelines go part of the way in addressing the concerns raised by Harvey, including:

- clarification of the target population of overweight individuals (body mass index, 25–29.9 kg/m^2);
- the minimum level of evidence to support weight loss claims in the overweight group is medium evidence arising from well-designed controlled trials without randomisation;
- well-designed analytical studies preferably from more than one centre or research group, including epidemiological cohort and case–control studies or from multiple time series with or without intervention.

It has also been determined that the studies should incorporate the characteristics and lifestyle of the target population, with the success of a weight loss medicine determined by a minimum of 5% decrease in BMI, weight or total body fat *and* at least 3% greater reduction in body weight or fat than placebo and/or controlled diet and physical activity.

The new draft Guideline should minimise the role of "traditional evidence" in supporting claims for these products through the trial criteria required for evidence development. The draft Guideline attempts to address many of the issues raised over the years, particularly the issue of the therapeutic claims not being aligned to the evidence available for the individual product or ingredients.[14] However, the draft Guideline fails to include a framework that addresses the review structure. Despite the draft Guideline requiring that the combinations of ingredients for individual products and the associated evidence held by the company be for that specific combination of ingredients alone, no timeframe has been set for the implementation of the Guideline. In addition, there has been no opportunity to initiate and trial a requirement for additional responsibility by the manufacturing companies or sponsors to ensure standardisation of the concentrations of the active ingredients.

Delay in finalising the Expert Committee's recommendation for review of the TGA's *Guidelines for levels and kinds of evidence to support indications and claims*[15] has been in part due to the postponement of the legislative amendments for the joint agency. This delay has in turn impacted on the failure to progress development of several interrelated recommendations made by the Expert Committee.

However, some progress has been made in reviewing these Guidelines for listed complementary medicines. It is expected that the legislative changes required to underpin the levels and kind of evidence to support indications and claims for listed complementary medicines will be one of the amendments to be introduced into the Australian Parliament in 2009. The delay in addressing the issues around evidence impacts heavily on the quality of and access to information necessary to support consumers and health professionals in the quality use of complementary medicines. Importantly, this delay has impacted on the development of more appropriate study designs necessary to support therapeutic claims for specific product areas such as those promoted for weight loss, which has enabled the market to be inundated with a vast range of products with an equally vast range of combinations of active ingredients supported by the limited evidence as defined under the regulatory role definition of traditional use as reported in the 2008 publication of Harvey et al.[16]

The Expert Committee recognised the responsibility of health care providers, both mainstream and complementary, to behave in an ethical manner at all times. All who participate in the health care industry should be required to be factual and honest about the likely benefits and limitations of the complementary medicines offered, recognising that making unsubstantiated claims or taking advantage of desperate or insufficiently informed people is morally and professionally unacceptable and should be subject to professional and regulatory sanctions or disciplinary action. To do no harm is a key prerequisite of ethical behaviour of every health care provider and encompasses at least three components:

- direct harm — resulting in adverse patient/client outcomes including side effects, medicine interaction or encouraging withdrawal of current therapy;
- indirect harm — as the result of delay in implementing appropriate treatment or by creating unreasonable expectations that might otherwise discourage patients and their families from accepting and dealing effectively with their health problem;
- economic harm — encouraging expenditure on ineffective, unnecessary or unsafe medicines and therapies without providing an awareness of the unproven nature of the treatment or modality being offered, which might also lead to direct or indirect harm if money is otherwise no longer available for living essentials or more appropriate health care management.[7]

In complementary medicines, a key factor in addressing both possible harm and the issue of evidence and traditional use is the need to address the standardisation of the active ingredients. This requires the correct identification of the active ingredients in conjunction with the purity and the concentration of the nominated active ingredients aligned with the evidence. Until this issue is addressed, the relevance of the evidence held by the sponsor or manufacturer to support the low-risk status and therapeutic claims for individual complementary medicines is tenuous at best.

The Expert Committee recognised a particular need to fund consumer and health practitioner education initiatives relating to complementary medicines within the ambit of the QUM strategy. One recommendation related to determining the information and skills needs of health care professionals and consumers, and identifying options for conveying this information to stakeholders.[7] This recommendation led to a detailed study undertaken by the National Prescribing Service (NPS) on the attitudes and information needs of general practitioners and community pharmacists and the information sources and needs of consumers.[17]

The results of this study were released in December 2008 and confirmed the increasing use of complementary medicines by consumers in self-management of their health.[17] The study also reinforced the evidence from overseas about the limited knowledge and/or awareness among these professions which resulted in the Expert Committee recommending the investigation. Interestingly, most health professionals but only some consumers sought access to improved evidence of the efficacy of the complementary medicines for the nominated indication. Indeed, many consumers were unaware of the need for evidence for efficacy, assuming that efficacy had been confirmed by the regulator in permitting the product to be available for sale.

Issues identified as gaps in medicines information were that many GPs and pharmacists:

- did not always discuss the use of complementary medicines with their patients and were often unaware of complementary medicines use by their patients;
- often looked for information on the safety and benefits of complementary medicines, and were often not satisfied with the information they found;
- wanted to learn more about complementary medicines;
- were not aware of many independent reliable sources of information on complementary medicines;
- were not aware of the side effects of some commonly used complementary medicines and their potential interactions with conventional medicines;

- were not confident in discussing complementary medicines with their patients.[17]

This study should be extended to complementary health practitioners to determine the extent of their knowledge and information needs as it is likely that much of their information is provided by carefully crafted marketing from sponsors and manufacturers, much as has been the case in the past for pharmacists and medical practitioners.

These issues now give further direction to the importance of addressing the information needs of health professionals to enable better guidance to consumers. This was highlighted by the limited awareness or knowledge on the possible hepatotoxic effects linked to black cohosh by only two in five health professionals (GPs 38%; pharmacists 44%). All GPs and pharmacists have access to specialised medicines information resources such as the *TGA ADRAC Bulletin* which is mailed out with the *Australian Prescriber* and the *NPS News*. However, the perceived relevance to daily practice, utilisation, or the presentation of the information provided in the *ADRAC Bulletin* must now be reconsidered as, in three individual issues between February 2005 and June 2007, the *ADRAC Bulletin* has addressed the topic of possible hepatotoxicity with black cohosh .[18-20]

Another issue for further consideration arising from this work by the NPS is that of the complexities of ensuring the quality and independence of information to customers purchasing complementary medicines from community pharmacies.[17] The NPS study demonstrated similar results for the health professionals surveyed with respect to the recommendation of some kind of complementary medicine in the 12 months before the survey (GPs 90%; community pharmacists ~100%), with only around 1 in 4 health professionals feeling confident in discussing complementary medicines with patients (GPs 38%; community pharmacists 43%).

The same study also reported that almost 60% of community pharmacists indicated that often they were not involved directly in complementary medicines sales in their community pharmacies. This raises questions about the source of information provided to their customers, the quality of that information and particularly the responsibility of the pharmacist in making available unproven products from the perspective of professional practice standards for pharmacy. The Council of Pharmacy Registering Authorities (COPRA) *Promotion and advertising of medicines and complementary products*[21] document clearly states the responsibility of the pharmacist:

> 5 Pharmacists must ensure that they are able to provide consumers with objective and comprehensible information on the efficacy and safety of all medicines and complementary products stocked by the pharmacy.

The Pharmaceutical Society of Australia (PSA) under their *Guidelines for pharmacists' relationship with the pharmaceutical industry*[22] also places the focus on pharmacists:

> Pharmacists should be especially wary of providing support, either directly or by implication, for therapeutic claims made in relation to health care products that have not been scientifically evaluated in accordance with procedures required for medicines on the Australian Register of Therapeutic Goods.

All health professionals have an obligation to understand the products that they present to consumers and should represent honestly and ethically the likely outcomes of use of such products. Surveys have shown that pharmacists are among the most trusted of health professionals.[23] However, the propensity to have large displays of complementary medicines in pharmacies could lead consumers to believe that the pharmacist understood and endorsed the efficacy of these products. Consumer perspective might change significantly if consumers were aware that complementary medicines did not have the endorsement of the pharmacist or that the pharmacist had insufficient knowledge of the likely benefits of the products. Pharmacists should be required to follow the PSA guidelines and provide a disclaimer or give personal and specific professional comment to each consumer on the extent of demonstrated efficacy of the products they display, or certainly indicate their own lack of

understanding of the likely efficacy of these products. The excuse that similar products are available in health shops or supermarkets is not in keeping with their claims of professional and ethical responsibilities toward trusting consumers. All health practitioners should make certain that they take a detailed and non-judgemental medicines history that includes recording the use of all medicines — mainstream or complementary — to minimise the risk of interactions or complications. Equally, all health practitioners prescribing or recommending any medicines, whether mainstream or complementary, have an obligation to provide balanced information on the likely benefits, side effects and interactions of such medicines.

The Australian Government has an obligation to demonstrate compliance with its own National Medicines Policy to ensure appropriate standards of quality, safety and efficacy and the quality use of medicines. Further delays in implementing proposed new regulations will be detrimental to the unsuspecting consumer.

Competing interests

The authors declare that they have no competing interests.

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