

'REGULATION, AM I BOVVERED?'
LETTERS IN RESPONSE TO KATHERINE HALL'S ARTICLE ON REGULATION

Dear Elizabeth and Katharine,

Although I wrote a fairly comprehensive reply to the questions published in Shiatsu News, I was left unsatisfied, feeling there was something I had not been able to express. Reflecting on that over the past couple of weeks I now sense that, whilst I pushed the scope of your questions to their limit, the only place I had to explore was what happens after regulation, the fact of regulation being accepted as *fait accompli*. Important as it is to understand the future role of the Shiatsu Society in representing the profession, the process of regulation presents issues of its own which need to be given their due. With further consideration it seems to me that the case for regulation is far from being established and understood, nor is it clear that the approach being taken by the SWG and PFIH is the best and only path.

What particularly concerns me is that alternative medicine forms part of a growing popular reaction against the political, economical and industrial systems of which regulation is an essential tool. Regulation is the glue which holds together the systems we are dissatisfied with and seek to reinvent. If regulation is appropriate at all, it will need to be applied in a very different way if that vitality is not to be lost.

For the past 4-500 years, the Western world has been dominated by the ideology of reason, a key feature of which is the reliance upon systems and methods over personality and experience. A reaction against the flaws and excesses of corrupt church leaders and despotic divine monarchs, the Enlightenment not only removed divinity from the equation but also humanity, replacing both with the abstract concept of reason. In this world view the person is unimportant, one only has to follow the method, adhere to the system for success. This is the model of all of our current governments, institutions, industries and professions, medicine included. Of course, in removing the human from the equation, not only were the negative traits of flawed leaders removed from our culture but also all of the positive characteristics we give the name of humanity. Far from providing a balanced, reasonable and happy life for all, this blind adherence to reason can be blamed for for the worst excesses of recent history - two World Wars, the gas chambers, Hiroshima & Nagasaki and ongoing political and economic instability where one crisis follows another. Humanity, it seems, had a moderating effect, balancing negative characteristics with an equal or greater dose of positive ones - now we suffer instead from extremism, the result of unrestrained ego.

The human has, of course, never been completely eliminated from popular consciousness. The cult of celebrity has offered glamorous, frail, human characters we can be fascinated with whilst real power is concentrated in amoral leaders and depersonalised professionals, but increasingly people are seeking real alternatives. They want to return humanity to the centre of our lives and we see this in the increasing popularity of rebellious leaders like Ken Livingstone, George Galloway and Prince Charles, criticised by the establishment as much for their human frailties as their radical ideas, they never the less possess a scrupulous honesty in their policies which captures and seizes the public imagination. I believe that the attraction and growth in popularity of alternative medicine lies as much in this view that places the human at the centre of the process as in the simplicity and naturalness of the techniques. Not only the patient but the practitioner as well is placed at the centre, for I believe the efficacy of alternative medicine depends as much if not more upon the personality of the practitioner and the closeness of the practitioner-patient relationship as it does upon the specific therapeutic techniques applied. It is the persons that are most important and not the method.

Regulation exists in the old world view as a means of ensuring that the officially sanctioned method is adhered to in order to deliver predicted outcomes. The educational institutions inculcate the method and the professional is then fully equipped to become part of the system. All that needs to be tested is that he has received the appropriate training and updates that training as the method and system is refined. A degree of morality is imposed by an external code of ethics created by a committee of experts - yet another system. In Greek, *ethos*, the root of ethics, did not mean a code of conduct, rather it best translates as "character". Character means to be fully human. It is not something imposed from without, but something that comes from within, and whilst difficult to define its presence is clear to see. In the classical tradition of Oriental medicine influenced by the philosophy of Daoism we develop ourselves to be fully human in order that we can enable our patients to become fully human. This is something very difficult to codify into a method or system and hence almost impossible to regulate.

To the extent that regulation is necessary to allow the integration of CAM into the contemporary medical system, and this is the only argument I have so far seen to support regulation, my belief is that it should be limited to the bare essentials of what is necessary to achieve that goal. This would entail ensuring that practitioners have a basic level of skill and understanding of contraindications so as not to cause harm, an appreciation of the theory of their chosen therapy so that they can differentiate it from other modalities and a level of understanding of biomedicine as is necessary for their effective interaction with other practitioners in an integrated health system.

Continuing Professional Development is closely linked with regulation and, it is true, essential in the old model. It exists in the professions as a means of ensuring practitioners are fully conversant with the newest methods, since whilst the ideology of reason posits a single ideal solution, the reality is that these sciences are young and the method is constantly being refined in light of new discoveries. The relevance of Continuing Professional Development to alternative medicine, which remains connected to a heritage of thousands of years that is slower to

evolve, and which as I have proposed is less dependent upon method anyway, is more tenuous. Recognising the centrality of the person in alternative medicine, what is probably more appropriate is Continuing Personal Development. Personal development implies a deepening of understanding rather than a broadening of knowledge. It is more likely to be achieved through personal reflection, supervision and ongoing practice than through further training and is perhaps best assessed through patient feedback, supervision and peer review than totalling of hours.

In making alternative medicine more widely available by integrating it within the contemporary medical system it is essential that we preserve both the techniques - which offer less invasive and harmful options to the patient - and the outlook - which places the human being in all his aspects at the centre of the therapeutic process. To subsume the techniques of alternative medicine within the cold and impersonal systems of the contemporary medical models would be a betrayal of the aims of the alternative movement, the rich heritage of traditional medicine and the aspirations of patients who want and need more. Integrated health has to be a meeting of equals that offers a real alternative to patients.

In case this all seems to abstract, some specific questions might help clarify exactly what problems regulation is trying to solve and ensure that the solution implemented is appropriate to those specific problems. Otherwise we are pursuing change for its own sake without any definable benefit to patient or practitioner.

Is there any evidence or research to suggest that Shiatsu practitioners are abusing, exploiting or harming clients on any significant scale as to warrant regulation?

Is there any evidence or research to suggest that regulation in other CAM fields has prevented abuse, exploitation or harm?

Apart from the training and accreditation organisations which have a vested interest in promoting a system of accreditation which they can market as an exclusive license to practise, are any other bodies (such as for example patient groups) lobbying for regulation?

Is there any evidence or research to suggest that good therapeutic outcomes are demonstrably related to levels or types of training?

What consideration has been given to the use of mechanisms such as client feedback, supervision and peer review to monitor therapeutic outcomes, professional conduct and personal development?

What consideration has been given to the creation, funding and enhancement of patient education as a means of preventing abuse and exploitation?

In standardising training, competency and ethical criteria how will the danger of creating a monoculture of practice that takes away the vitality and diversity of CAM and ultimately reduces patient choice be mitigated?

Oriental medical practitioners as well as being physicians also take on roles that would be fulfilled by psychologists and priests in the Western model, treating the totality of a person that Western thought would divide into body, mind and spirit. How do the proposals for the regulation of Shiatsu address these differences?

Regards,

Rahim

Rahim St John MRSS

Hello Rahim,

This is a beautiful piece of writing and captures the essence of what we need to hold central, in my view, when we talk about the role of regulation to CAM. It echoes the sentiments I hold dear - that we need to remember that the light touch, constructive, sensitive approach is by far the more useful way to go forward.

The difficulty is that while I understand the concerns about the place of regulation in CAM, there is a balance to be struck and I would say to Rahim that although it is right to say that the incidence of misconduct will be extremely rare among Shiatsu practitioners (as indeed I think it will be for other professions too), cases will, sadly, arise. Human nature reveals our weaknesses as well as our strengths and, as you know, work is all about dealing with cases of abuse of position and power. This is not to say

that I expect a great many cases to come to the regulator - I don't. In fact my feeling is that the majority of practitioners will have no direct involvement with the regulator other than to be registered.

As you know, my view is that regulation offers as much protection for the practitioner as it does for the patient. I frequently come across malicious complaints that are without foundation and these need firm and clear handling and, in my opinion, oftentimes the regulator can offer an independent, objective and effective solution for the practitioner and the patient.

The regulator is going to have to work hard to build trust and respect from the industry and from the public and as members of the PFIH we have to set things up in such a way that that is facilitated. I want to see a regulator that is fair, proportionate, transparent, respectful, balanced and constructive. I think simplicity adds to the mix quite well too. It is a challenge and yet I think now is the time to sweep away the old structures and try to introduce some new thinking and attitude into the role.

One of the roles of the regulator will be as a disseminator of advice for the public and information about how to manage the relationship with the practitioner. I agree with Rahim that little or no attention is given to this point which is not good and we need to take account of that.

Above all what the regulatory body needs is a good dollop of common sense. That is why I advocate local resolution so fervently - the philosophy being to address problems swiftly, at source and in the most direct way possible - that is between the practitioner and the patient. It seems eminently sensible to start from that point rather than the top down approach. In that way the regulator should only become involved when things go badly wrong.

I hope this answers some of the points raised.

Kind regards

Lisa Ball

(Lay Member on Federal Working Group)

Hi all,

I write as one who is NOT any form of CAM professional but only as who has followed (in some areas led) the Regulation discussions since 1999 (others have done much longer).

I cannot comment on Shiatsu.

The need/request for Regulation it seems to me was first made "political" by the House of Lords Report of 2000. To paraphrase the intent it seemed to say:

"IF CAM wants to be considered part of the "standard" healthcare of the nation then it must sort out its standards and become regulated so that the public can be sure that it is being treated by those who are qualified to a proper level and are "fit to practise"." Those are not the words but my "impression" of the message.

This is NOT *necessarily* about making CAM part of the NHS although the message was/is that if it was, then practitioners would have to be regulated - like *all* other NHS people treating and handling patients..

Regulation and registration has two parts:

A) the therapy itself has clear written definitions and standards of treatments, education and training, so there is a clear ability to define "fitness to practise" and the processes to keep up to date with developments (CPD)

B) Each individual who is Registered is measured against that standard (as to the ability to carry out the therapy, to handle the public professionally and is him/herself in good health)

After Shipman and other issues the government is understandably keen that members of the public who entrust themselves to treatments by other individuals should be able to have the confidence (through using only registered practitioners) that they will be well treated and in no danger.

Complementary therapists who visit people in their homes alone or invite clients into their homes for treatments are actually in an "unusual" situation in modern times. Who does the client complain to if there is any "issue"?

(While I was running the CThA register of members we had one case (just one! I am relieved to say) of a member who had been – it turned out - behaving appallingly for a long time: his clients would not complain formally. As it was in a London borough and he had to be registered with the borough, one finally did complain to the Borough authority: eventually he was imprisoned for 3 years!) Had it not been a borough he might still be doing it??

So one aspect of regulation is that of "safety".

The other is of ensuring the skill/knowledge of the practitioner.

The House of Lords for much of CAM called only for Voluntary Registration and Regulation (Some more invasive therapies are to be statutorily regulated: acupuncture, herbal medicine are two)

So "Shiatsu" as a therapy can decide NOT to be regulated.

If it does set up standards for the purpose, individuals will not have to join in.

The choice is thus all yours both as to the therapy and for the individuals. This would not be true if statutory regulations was being imposed.

If most other CAM therapies take to regulation and registration, will Shiatsu be happy to be “outside” ?
IF the NHS starts extending referrals only to practitioners on the National Register will Shiatsu practitioners be happy to be excluded?

Just some thoughts

The latest White Paper on Regulation is instructive and seems to move all towards statutory regulation .

John Dent

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Now (just) retired but representing CThA on all Regulation matters.

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