

June 2006 Newsletter

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Welcome to the June 2006 newsletter!

Welcome to the June edition of the Acupuncture.com.au newsletter.

This month we release our largest newsletter to date featuring lots of great article contributions and the latest news and research from around the globe.

The release of this newsletter also coincides with the first day of Winter. Winter is the time when



nature rests and animals hibernate to conserve energy. It is the time where we

need to protect our bodies from the elements and fortify our qi, blood, fluids and essence. In our newsletter this month we have included some great Winter Recipes based on Chinese Dietary principles.

We thank the contributors of all the articles that make this newsletter possible and we always welcome your contributions to the newsletter.

Q&A – Can Acupuncture treat Migraines?

Acupuncture can help reduce the severity and recurrence of migraines. Studies have also shown that Acupuncture is just as effective as the standard drug treatment for migraines.

This months Q&A focuses on the current options for the treatment of Migraines with Acupuncture and TCM and is available exclusively online at www.Acupuncture.com.au



Acupuncture combined with drugs help chemotherapy-induced vomiting. [05 May 06]

A new report suggests that a combination of Acupuncture and drugs help relieve chemotherapy-induced vomiting.

Acupuncture is becoming more and more popular for people with nausea and vomiting caused by chemotherapy. Even with new drugs becoming available many cancer patients can sometimes still be affected by unwanted side effects including weakness, lethargy and weight loss.

The reviews by James P. Swyers Enterprises from Baltimore included several different therapeutic methods of Acupuncture including Acupressure, Electro-Acupuncture, noninvasive Acupuncture using a wristband device and the commonly used manual Acupuncture.

The team found that Acupuncture reduces first-day nau-



sea, however it was not effective for the delayed symptoms of nausea or vomiting.

Based on correlated data from about 11 trials including more than 1,200 cancer patients, 22 percent of Acupuncture patients experienced vomiting the first day after chemotherapy compared with 31 percent of those who did not undergo Acupuncture.

Acupuncture combined with drugs help chemotherapy-induced vomiting. [05 May 06]*(Continued from page 1)*

Jeanette M. Ezzo, co-author of the report found that the Electro-Acupuncture reduced the first-day vomiting however the noninvasive electrostimulation of the skin does not. Manual acupuncture appeared to be largely ineffective for chemotherapy-induced nausea or vomiting.

During the trials the patients received concomitant anti-emetics, and all pa-

tients, except those receiving Electro-Acupuncture received drugs recommended for chemotherapy related nausea and vomiting such as Zofran and Anzemet.

The investigators stated that it is not known if Electro-Acupuncture adds anything to the most current anti-emetic drugs however they noted that this unknown needs to be studied.

In conclusion, the co-author and col-

leagues of the report believe that the data from the trials complements that Acupuncture has a biological effect.

References: AU: Ezzo JM, Richardson MA, Vickers A, Allen C, Dibble SL, Issell BF, Lao L, Pearl M, Ramirez G, Roscoe JA, Shen J, Shivanian JC, Streitberger K, Treish I, Zhang G (2006) *Acupuncture-point stimulation for chemotherapy-induced nausea or vomiting*. The Cochrane Database of Systematic Reviews: Reviews 2006 Issue 2 John Wiley & Sons, Ltd Chichester, UK DOI: 10.1002/14651858.CD002285.pub2

Acupuncture & TCM Events Calendar for June 2006

List your event for

FREE

on our website and newsletter. Submit your event now by visiting:

Acupuncture.com.au

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Abdominal Diagnosis & Secrets of the Meridians by Ikeda Masakazu Sensei - A Final Masterclass (3 days)

When: 03-05th June

Where: Gold Coast - Bond University

Contact: ikedas06@tpg.com.au Registration: Helio Supply Co Phone: 1800 026 161

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Auriculotherapy: Clinical Methods in Ear Acupuncture - the works of Nogier, Bahr and Bourdiol. Presented by David White. (2 AACMA CPE Points)

When: 12-13th June. 7.30pm - 9.30pm

Where: SITCM. 92-94 Norton Street, Leichhardt, NSW 2040

Contact: Igor Bilek on (02) 9550 9906 or igor@sitcm.edu.au

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Fu Zhen Abdominal Acupuncture. Presented by Hoc Ku Huynh. (2 AACMA CPE Points)

When: 21st June. 7.30pm - 9.30pm

Where: SITCM. 92-94 Norton Street, Leichhardt, NSW 2040

Contact: Igor Bilek on (02) 9550 9906 or igor@sitcm.edu.au

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Life Expo 2006 (3 Days) (Health, fitness and lifestyle expo)

When: 23rd-25th June

Where: RNA Showgrounds, Gregory Terrace, Bowen Hills, QLD

Contact: Michelle Madden on (07) 3253 3602 or Email: info@lifeexpo.com.au

Proposed joint regulatory scheme for the new Australia New Zealand Therapeutic Products Authority (ANZTPA). [29 May 06]

Documents detailing the proposed joint regulatory scheme for the new Australia New Zealand Therapeutic Products Authority (ANZTPA) have been released for public consultation.

Submissions are being welcomed on the proposed regulatory scheme or "draft Rules" for medicines and medical devices; a description of the proposed Grouping Order for medicines; draft guidelines on transition provisions for product licensing; the key components of the draft Administration Rule; and the con-

sultation document on the proposed fees and charges. The closing date for submissions on the consultation documents is 15 August 2006.

The proposed regulatory scheme for prescription, over-the-counter (OTC) and complementary medicines and medical devices aims to protect the health and safety of Australians and New Zealanders through jointly regulating therapeutic products in accordance with international best practice.

It is proposed that the level of regula-

tion will reflect the degree of risk associated with a product. For lower risk products such as most complementary medicines, the proposed regulatory scheme will be less stringent than for products such as prescription medicines which go through a strict evaluation and approval process before consumers can use them.

This is the first of three consultation phases on the proposed regulatory scheme. Full details of the regulatory scheme are available at the Australia New Zealand Therapeutic Products Authority website at: <http://www.anztpa.org/consult/consdocs1.htm>

Cooking for winter

By Nick Blewett



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Introduction

All life follows the natural rhythms of nature. This is observable in all facets of life such as life into death into rebirth, the rise and fall of the sun, the waxing and waning of the moon so on and so forth. The seasons also follow this rhythmic cycle and according to Chinese philosophy we as humans should follow these transitions also. However, 21st century living and our modern life has a way of separating us from nature and the flow of the seasons, but with a little work and forethought we can change our lifestyles and adapt bring us a healthier more natural way of being.

One such way is the most natural of all...our diet. We can bring ourselves into harmony by observing the change of the seasons and adjusting our eating habits accordingly. Once upon a time this was easier as without freezers and mass produced preserved foods we had little option but to eat what Mother Nature intended.

Currently in the southern hemisphere we are moving into winter. Therefore during this time it becomes important to nurture our health with those foods and cooking styles which will protect our bodies from the ele-

ments and fortify our qi, blood, fluids and essence.

Philosophically speaking, winter is the time for storage. At this time the body's qi will naturally move deeper into the body to nourish the deeper aspects of the body and to protect itself from cold penetration. Therefore, with the qi moving inward and consolidating we must eat foods and drinks which nourish this energetic tendency and incor-

porate lifestyle principles which mimic these movements. The dietetic principles to be incorporated at this time are 1/. Nourish the nutritive (ying) ki and reinforce the essence, and 2/. Build defensive yang (wei) ki to protect the body against cold and pathogens.

The following pages contain some simple recipes to help you achieve this and hand on to those clients who would benefit from some dietetic therapy.

Miso soup with fresh ginger and spring onion

Feel a cold coming on? Don't run to the chemist or the expensive herbs just yet. If you feel the initial stage of a cold with symptoms such as sneezing and chills then Miso soup with a touch of ginger and spring onion will help. This therapy is used to treat the initial stage of a Tai Yang level cold, and is to say **as soon as** you feel the on set of an exogenous pathogenetic attack on our exterior, it can be warded off by assisting the Wei ki to warm and disperse. If progressive symptomology occurs, such as- body aches, watering itchy eyes, headaches, fever then specific herbs and acupuncture treatment are indicated.

Ingredients:

Miso soup paste: Sweet & salty flavour, Neutral nature and enters the Sp, St & Kid Meridians.

Chopped spring onion or Shallot: pungent taste, warm nature and enters Lu and St.

Fresh Ginger: pungent flavour, slightly warm nature and enters Lu, Sp and St meridians.

Preparation:

Simmer the ginger in 2.5 cups of water for 5-10 minutes until the water has taken on the colour of the ginger. Then add the spring onion and continue simmering for a further minute



or two then turn the heat off. As soon as the water has stopped simmering- add the miso paste (miso has live enzymes- boiling the paste kills the enzymes) and whisk until the paste dissolved completely.

What it does:

Firstly, the physical warmth of the decoction and the fact that miso soup has live digestive enzymes makes it easily digestible. This means that the ki of the stomach and spleen need only to do a minimum of work to gain the most out of the ingredients. Energetically, the pungent flavours of the ginger and the spring onion assist the dispersing function of the lung and aid in releasing the exterior. This is achieved by the warm nature and the propensity of these foods to enter both the lung and stomach meridians, which in turn will assist in the production wei ki by the stomach and its circulation around the body by the lung. In turn this will regulate the ying (nutritive) ki and the wei (defensive) ki by warming the chilled exterior allowing the pores to open and release the heat building in the taiyang meridian before it becomes voluminous and generates a fever, injures the ying ki further and has opportunity to move into deeper levels of the body.

Red Wine

Red wine is an excellent way to warm the meridian system during the colder months. A single glass at night before or during the night time meal can help to release cold from the surface and warm the interior by activating blood circulation and warming the middle jiao. Red wine has a pungent and slightly sweet flavour (depending on type) a warm nature and a propensity for the heart, liver, lung and stomach meridians. The propensity of wine to enter the heart and liver displays its ability to warm and activate the blood and the propensity to move into the lung and stomach meridians will warm the exterior by means of generating and circulating the wei ki.



It is advisable to limit one's intake of wine for this purpose as too much, as fun as it can be, will generate too much heat. Too much heat moving to the exterior will cause the pores to open which can inadvertently cause a dispersion of ki and fluids from the body which may, if the environmental situation is right, actually cause cold air to lodge in the exterior surfaces of the body and therefore cause a cold.

Mulled wine is another alternative to red wine. Mulled wine is wine which is served warm and prepared with citrus fruits juices and herbs such as cinnamon and nutmeg and sometimes brandy or cognac can be added. I drank some of this time last year in Hobart after a freezing bush walk. Needless to say its ability to warm the exterior was excellent!!! Mulled wine recipes can be easily found on the internet by google searching. However, you are more than welcome to try out this one and as you do your research you will be ready to play and make your own.

Mulled Wine

What to use...

3 bottles of Cabernet Sauvignon: as above.

1 cup Orange Juice: Sweet and sour flavour with cool nature. Enters stomach and bladder meridians.

½ tsp Nutmeg: Warming.

½ tsp Cinnamon: Warming. Releases and warms exterior.

½ tsp powdered cloves: Warming.

2 tsp Whole Cloves: Warming.

1 tsp Honey: Sweet flavour. Neutral nature. Enters stomach and lung meridians. Builds yin.

2 tsp Brown sugar: Sweet with warm nature. Enters spleen, stomach and liver meridians. Activates blood.

What to do...

Combine ingredients into a large saucepan over a low heat. Warm the ingredients slowly and carefully stirring frequently. Serve warm and enjoy.

Lamb Stew

During winter the ki moves down and deeper into the interior of the body. Moderately sized hearty meals therefore assist to tonify the nutritive ki at the deeper level whilst the warming nature of many of the ingredients means that the heat can easily radiate outward to the exterior warming the yang ki of the entire body.

Ingredients:

Lamb (steaks): sweet flavour, warm nature and enters the Sp, Kid, and warms the middle jiao and builds qi and blood.

Lamb (Kidneys): Warms and builds kidney qi and essence.

Red wine (to taste): Pungent and warm. Warm interior/exterior by activating blood and warming the exterior.

Walnuts: Tonify the kidneys and being a nut works strongly with essence.

Carrot: Carrots must be well cooked. Tonify the spleen and aid digestion and reinforce the liver.

Potato: Tonifies the stomach and spleen

Sweet potato: Tonifies the spleen stomach and large intestine.

Leak: Pungent and warming.

Garlic: Pungent and warm with propensity for the Stomach and spleen and lung meridians. Warms middle jiao, reinforces stomach and aids digestion.

Salt & Pepper: Salt will activate the kidney and pepper will add heat to the recipe.

What to do... Lightly fry the lamb steaks and garlic in a large pot with a little oil until seared. Then add all ingredients and add water until almost covered. Use salt and pepper to taste. More salt will guide the flavours of the stew to the kidneys and pepper will add heat into the stew. Rice and also be added and used to form a stable base for the mix.

What is does... Lamb stew, cooked with lamb's steaks, shanks, kidney's or even liver, or combinations of these meats is all useful for deep tonification of the kidney nutritive ki whilst also building the yang ki of the whole body. While any lamb meat will suffice, lamb's kidneys are great at deeply tonifying the kidneys and their essence. However, this can be a little distasteful for some so shanks and steaks for all purposes work fine. The red wine activates blood and



warms the exterior; however most of the alcohol will be cooked off slightly reducing the actions of the wine. Walnuts being nuts assist with essence and walnuts are specifically related to the kidney. The vegetables are usually chosen to suit the individual's tastes with exception of the garlic which is a great warming herb with a big list of medicinal actions perfect for use in the winter months. In saying this, potato's and sweet potatoes are excellent at tonifying the spleen and stomach with some texts stating that potatoes reinforce the kidneys. Leak is another great choice because it is warming and is rich in folic acid, iron and potassium just to name a few. However, feel free to play with this recipe and add whatever vegetables or lamb meats you feel like.

Oat Porridge

We all know breakfast is the most important meal of the day. Between 7am and 11am is the horary time for the stomach and spleen respectively which means that this is the best time of the day to fuel the body's qi, blood and fluid production. Porridge is a great meal to achieve this since oats are readily digestible and have a stable GI rating due to oats being rich in proteins as well as carbohydrates.

Energetically, oats are warming and have a sweet and slightly bitter flavour. Oats build qi and blood and generally sooth the entire body system.



Ingredients

1 cup whole Oats,

3-4 cups of Water,

A pinch of Salt.

What you do...

Place oats in a large pot with salt and water. Bring to the boil. Reduce heat to low and simmer overnight. However, this can be done much easier but using less water and simmer shorter. ie: use a 1:2 ratio; oats:water and simmer for 40minutes.

Things you can add in...

Fresh ginger: 1 or 2 slices or grated to help warm the spleen and stomach in cold weather.

Cinnamon/nutmeg/cloves: Added to taste. Helps warm the exterior.

Pears/ apples: Add at beginning to stew the fruit. This moderates the cold raw fruit and adds flavour.

Dates: build qi and blood. Natural sweetener when caramelises in the mix.

Sultanas/raisins: Just for flavour and texture.

Pepper (pinch): Pepper is my own addition and it seems to make plain porridge taste better.

What it does...

Being a stable, reasonably heavy meal, porridge will take a little longer to digest before leaving you feeling hungry. This is beneficial in winter because the heat energy generated by food will continue radiating outward from the intestines keeping you warm longer. Oats for breakfast are a great way to begin the day and a large serving can be easily saved and re-heated for the next day. Fruits can be added and stew as the porridge is cooked- pears are my favourite and in general tonify the lung. Chinese wolfberries can be bought at most Asian grocery stores are also good and tonify the kidney qi. However, if you like savoury meals, chicken and vegetables can also added instead to give you a great warm qi and blood building start to any cold day.

Food for thought..

So apart from keeping warm with clothes, extra dooners, slippers, salves etc... put a little thought into what you put into your stomach as this will largely affect your over all metabolism and its ability to control your body temperature.

1/. Especially in winter use foods that nourish deeply and are warming. Foods such as chillies are to hot and may inadvertently disperse ki and fluids. Foods or drink that are cold- energetically or physically- will cause to ki and blood to be pulled away from the deeper levels of the body into the stomach for digestion and therefore be counter productive during winter when the focus is upon deeper tonification.

2/. Eat smaller meals as this will allow less qi and blood to be moved away from the deeper levels of the body.

3/. Rest and give yourself a little more time to digest. Hint- if you're tired after a meal you ate too much!!!

4/. If you do get a cold don't eat a lot of meat thinking this will warm the body and expel the pathogen- doing so will cause stagnation in the intestines and will further cause the spleen to become deficient and the pathogen to move deeper into the body causing further heat and fevers which will be more difficult cure. Instead try eating light but hearty vegetable/rice gruels and keep the meals small. This will sufficiently warm the middle without over burdening the digestive system.

5/. As long as one is able to remain warm after exercise without allowing the cold and or wind to catch their sweat and cause a cold invasion- then a little exercise is a good idea after meals. Exercise at this point will assist in producing wei ki as it will cause the lung qi to move as your respiration rate goes up and in turn will help to circulate the yang ki from the food in the stomach over the surface of the body- thus warming the exterior. But don't get cold after this or it will all be in vain... *Walking is best as it also massages the stomach meridian and is in general always beneficial after eating.

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Lets talk Business – The Acupuncture business.

By Robert Kendall.

Let's talk about making money - a load of money, as a Traditional Chinese Medical practitioner. The dirty five letter word Money. Have I got your attention? Have I brought up your resistance? 'I'm not in it for the money,' I hear you say. "I want to help people and be a healer. I want to ease the suffering of humanity. It's not spiritual; it's not what I became a practitioner for."

Yes I would agree with you, money wasn't the main reason I became a healer either. 'But' and this is a big 'But', as soon as you enter into starting up a practice, as soon as you decide to charge for your services, as soon as you say, "I am going into professional practice" money will rear it's big fat ugly head. And if you don't get a handle on it, it will cause you to fail.

It's a common fact that 2 out of 3 practitioners within three years of leaving college won't be practicing, mainly because you can't learn practice management at college. You have to learn it through practicing it. You have to learn to ask the questions, before you can find the answers. No use trying to teach someone who doesn't even know what to ask or look for. Professional Practice Management is learnt first by the seat of your pants. In the first years of practice you will be confronted with all your issues around self worth, around money, around service, around generosity and around your spiritual beliefs.

You will have to ask sick people while they are suffering to pay for your services. You will have to pay your rent and bills, because I guarantee you your real estate agent isn't going to care that you gave away your treatments, because spiritually it was the right thing to do and that poor patient was really suffering.

I had a classic example of this when a woman client, who was a friend of a friend, came in to see me. She had just broken up with her partner; she had no work and a young son to look after. She was stressed out and short of cash, so she said. So I, in my male hero role, discounted the cost of her treatment. She was very grateful and I felt like I was really helping. On her next appointment I found her dancing around the reception listening to her new iPod. Isn't it great she said? I felt like saying "Yeah - give me the ear phones because I bought them for you." It was just another lesson for me not to get into other peoples' stories and to stay true to myself.

Clinical practice will constantly throw up these little tests. Personally I don't think I am in clinical practice to save the world anymore. God has placed me there to learn my lessons about who I am and the people who visit me each day. These people seem to be sent by



God to teach, test and reward me when I get it right.

Professional clinical practice comes with awareness. You have to learn many new skills. You have to learn to be a business person, a promoter, manager, accountant, leader, as well as technically proficient.

Acupuncture.com.au has given me the opportunity over the next couple of months to share with you some of my 27 years experience as an acupuncturist and herbalist. I hope to over the coming months give you some great ideas to build your practice. I have worked in all types of practices with many different practitioners. I have always sought out mentors, people who have successful busy practices. They are people who enjoy giving their best and who are generous in sharing their wealth of knowledge.

If you are struggling in practice right now, or are feeling burned out, then my first word of advice is to go out and find yourself a mentor, someone who is succeeding, someone who loves their work and is happy to pass on their excitement. Remember even a dead black piece of coal only has to be placed next to a hot glowing fire to become ignited. The same goes for practitioners, find help, don't do it alone.

Another piece of good advice is to phone a successful practitioner and be willing to work or observe for free until you discover what it is that he does differently that makes him a success.

The Chiropractors over the last 80 years have built a strong business ethic. They have many practice management seminars. They have learnt what it takes to make a business succeed. They have research everything from the type of client to how to lay out your appointment book. They have learnt how to increase the service to a client while still cutting down the time it takes to treat. And if you are in it for the money they can show you how to make \$1 million dollars a year in clinical practice.

In this article I am not into the morals of how much money you make, my point is that we as a profession have done little to help raise our professional business standards. Most successful practitioners I know have had to learn it all by themselves. They have collected together in small groups and shared their hard earned lessons. I often find at seminars that I learn the most not in the lecture room but in the breaks over coffee talking to my colleagues. Even at our new conferences there is little in the way of how to build a practice and frankly I get tired of practitioners/students constantly having to speak on how their trials have proven that acupuncture works for this or that. In my mind it's just 'reinventing the wheel'. When will we begin to accept 4000 years of clinical trials and get on with helping the sick, easing suffering and building a happy successful life for ourselves and family?

One of my fellow practitioners at the

last conference pointed out to me how he likes being a TCM practitioner. Looking around the room he said, "You know TCM people are a bunch of really nice people. I am proud to belong to this group." In that moment I could really feel what he meant. We are a good hearted people. We give a huge amount of energy and time to learn how to heal others. The problem is, to succeed in business we have to give just as much time and energy to learn how to be financially successful and happy. 'We have to become good people with great skills.'

In the future I would like to see our association focus more on developing practice management seminars. One idea would be to gather some of the leaders in our profession to share their wisdom. Maybe there could be a lecture series over a year that utilises the collective experience of our elders.

The Chiropractors developed a strong political voice because they had the wealth to spend on promotion. Until our members become successful and have some spare cash to more fully support our association we won't have the political success the chiropractors and medical doctors have had. Professional success plus business success equals political success. We have some great people in our association who work tirelessly for little reward. Their only wish is to give back some of the satisfaction they have received out of TCM, but it is hard going when you don't have enough

money to support or promote.

My belief is that we have to start at the grass roots and if we can help each other to build successful practices we are then naturally building a strong healthy association. With that comes recognition of what we have to offer our communities and that recognition builds government and political awareness. Then, and only then, will we see the changes needed for TCM to be accepted.

Over the coming months I would like to share with you successful ways to improve your practice. If any of things I have mentioned interest you or you have any practice management questions you would like me to discuss in next month's article, please email me at contact@heavenearthhealing.com.

To summarise what you can do to build a better Business.

1. Find a mentor
2. Visit some successful clinics
3. Meet in groups and share your experience
4. Be willing to work for free - experience is worth a fortune
5. Ask the Association to create a practice management lecture series - that utilises the collective experience of our elders.

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Your contributions welcome!

This newsletter has been created for the public, the students and practitioners of Acupuncture & Traditional Chinese Medicine. It relies much on information contributed from the community.

We welcome any contributions including news articles, research papers or anything you feel would be suitable for publication on our website and in this newsletter.

To contribute visit www.Acupuncture.com.au and choose "Contribute" from the menu system.



Orwellian schemes for maximizing health-care industry profits **How these endanger the practice of herbal medicine**

A two part report by Roger W. Wicke, Ph.D.

Tactics used by modern megacorporations to inhibit the delivery of effective health care: deceptive marketing, product design to maximize side effects, influence over educational bureaucracies, legislators, regulatory agencies, and international trade organizations. Effects on the TCM (Traditional Chinese Medicine) herbal profession are examined as a special case, as these illustrate problems afflicting both conventional and alternative health care. (The author has several decades experience in clinical Chinese herbology and the politics and regulatory issues affecting it.) Originally presented at Conference on Plants, Medicine, and Power: Emerging Social and Medical Relations; 2003 March 14, UC Berkeley.

Last month..

- Overview
- Shareholder value vs. the public good - the modern megacorporation
- Marketing and product-design abuses
- Encourage maximum consumption with over-general product claims.
- Emphasize invisible benefits.
- Beat the drum of single-parameter double-blind testing to distract patients and practitioners from more sophisticated research paradigms.
- Utilize religion to enhance the placebo effect and further suppress self-awareness.
- Acquire testimonials from true believers.
- Maximize side-effects and create new markets.

This month..

- Lobbying public officials and non-profit institutions
- Encourage expensive regulatory schemes to put smaller competitors out of business.
- Maintain double standards for pharmaceuticals vs. herbs.
- Promote adoption of regulatory standardization of biochemical profiles for herbal products.
- Choke off accurate information at its source - the educational institu-

tions.

- Choke off competing health care options with mandatory state licensure.
- Choke off accurate information by controlling the media, and punish independent media sources by withholding advertising dollars.
- Choke off the most tenacious critics with food and product defamation statutes.
- International tactics
- Expand the venue of expensive and restrictive regulatory schemes via international trade organizations and international treaties.
- Pretend to protect indigenous health care practices and native plant sources with toothless regulations and promises.
- Suggested counter-strategies

Continued..

Lobbying public officials and influencing non-profit institutions and the media

(As the following tactics require more time and resources to execute, only mid-to large corporations can afford to employ them.)

Encourage expensive regulatory schemes to put smaller competitors out of business.

Tactic: As the company becomes larger and gains near-monopoly status, or becomes part of an industry cartel, encourage public lawmakers to pass regulations of the health product industry requiring expensive compliance procedures. This will affect

most severely the company's smaller competitors and will allow the company to aggressively acquire and absorb the smaller companies at attractive purchase prices.

This tactic has been notoriously employed by the pharmaceutical cartel. While publicly bemoaning the high costs of drug development and testing to obtain FDA approval, the major pharmaceutical companies know that the high costs of FDA approval as well as occasional litigation costs from drug mishaps will disadvantage their smaller competitors the most. Estimated costs in 1990 dollars for total development and approval costs to bring a new drug to market are somewhere between \$230 and \$359 million. [a1] Small companies with a promising product simply cannot afford these staggering costs nor wait 12 years for the labyrinthine FDA approval process to take its course.

According to FDA regulations, herbal products or nutritional supplements cannot make any claims to be curative or beneficial for specific diseases without FDA approval. This, combined with the fact that naturally occurring chemical compounds cannot be patented, means that any herb company that might miraculously obtain FDA approval for a specific product would not be able to protect its investment. Many experienced consumers of alternative and complementary health products and services have become accustomed to seeing disclaimers such as "not for the treatment of any medical condition", "no health claims are made for this product", and "not for medicinal use only" (sic), seen printed on certain packages of imported Chinese herbs. Most consumers routinely ignore these boiler-plate disclaimers because the machinations of FDA politics and corruption are common knowledge. (Some consumers have even taken the bold leap of illogic to assume anything the FDA disapproves must be worth trying, which demonstrates how when the public trust is broken, it cannot be easily regained.)

As discussed previous sections of this article, herbs and even common foods and spices are not immune from abuse, adulteration, and deceptive marketing, but government regulation of such abuses is not always a wise solution. [g2] In some cases, the regulatory scheme may provide even more opportunities for abuse, this time available only to the big players who can afford the monetary investment, the legal expertise to exploit loopholes, and the political connections to execute their designs on the public health. The most abusive of these schemes involve using government agencies, such as the FDA, as quasi-legal hit squads to ruthlessly crush business competitors, critics, and other threats to corporate profits. [g3, g1]

California's recently enacted Proposition 65, while on its face seeming to provide important health protections and legal remedies to consumers, is an example of legislation whose intended purpose may play out differently in the real world. Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986) requires that products that may contain certain hazardous chemicals, including heavy metals, include a warning label "WARNING: This product contains chemicals known to the State of California to cause cancer and/or birth defects or other reproductive harm." [g4] Unless the chemical is present at such low levels as to pose no significant risk, it must include the warning label. For purposes of the law, "no significant risk level" is generally interpreted to be that which would result in no more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. [g5] With one of every four people now statistically expected to die of cancer [g6], the implied goal of 1 in 100,000 seems like a pipe dream. Such standards are so strict that a majority of consumer products may be drawn into the jurisdiction of this statute, giving consumers no sense of priority or intuition as to the relative toxicity of alternative choices. According to the American Council on Science and Health, the statute also does nothing to require lowered levels of contaminants, nor does it require safety standards for specific industries, nor does it require educating the public on relative risks; it merely requires one-size-fits-all warning labels. [g7] The likely result of this legislation is that most businesses, to protect themselves legally, may automatically stamp all of their products with the warning if there is the slightest doubt, providing consumers not with a realistic assessment of risks, but rather a barometer of business paranoia over potential lawsuits; a number of Chinese herb distributors have begun to stamp all of their products with the Proposition 65 warning. Consumers, as with the disclaimer "not for medicinal use only", may soon learn to ignore them. Law firms, however, should expect brisk business from

this legislation.

For an exposé of serious sources of heavy-metal contamination in food products, the book *Fateful Harvest* by Duff Wilson [g8] reveals how toxic industries lobbied state legislatures to allow the recycling of industrial heavy-metal waste by blending them into agricultural fertilizers, without requiring any special warning on the labels. This was done with the tacit approval of state legislatures who designed loopholes in the laws to allow this. Wilson reveals the venality and cynicism with which the public health is auctioned to the highest corporate bidder. While Proposition 65 may have been enacted to appease public outrage, its inadequacies should become evident as major industries continue polluting as usual, while small businesses are besieged by an army of lawyers and bureaucrats over the issue of labels having very little information value to consumers.

Government regulatory schemes, especially when involving the practices of powerful industries, often are enacted belatedly, reluctantly, and in such a manner as to inflict the greatest burdens on smaller companies and businesses who are often not the guilty parties.

Maintain double standards for pharmaceuticals vs. herbs.

Tactic: Ensure that each mishap or presumed toxic reaction from unregulated herbal or health product receives maximum media coverage, followed up by vociferous demands for regulation to protect the public safety, while avoiding all discussion of the millions of toxic and iatrogenic reactions from FDA-approved drugs each year.

While the annual fatalities from herbal products are minuscule compared to those from pharmaceutical products [a5, a6], the media provides generous coverage to incidents of herbal and supplement toxicity or suspected toxicity. In recent years, ephedra, kava, St. Johnswort, and aristolochia and related herbs have come under fire, as well as the nutritional supplement tryptophan.

Government regulatory agencies often use such public hysteria to tarnish the reputation of herbs only tenuously related to the offending product. The concern over the hazards of tryptophan were likely due to a contaminant present in one batch of tryptophan pills, rather than the tryptophan itself, which is an essential amino acid present in all meat and protein products. Yet the FDA banned all forms of tryptophan supplements. [a5] When certain aristolochia-containing products were suspected of toxicity, an international paranoia ensued regarding even products with similar-sounding names. [e11, e12] Yet deaths from prescription medications barely merit an eye blink in the media, even though non-error,

adverse effects of medications are the fourth leading cause of death (106,000 deaths/year). [h1, h2]

Promote adoption of regulatory standardization of biochemical profiles for herbal products.

Tactic: Promote the regulatory standardization of herbal products by requiring that each batch of product meet or exceed the requirements of a standardized biochemical profile based on a few presumed "active" ingredients. Such a requirement may seem on its face to prevent cheap or ersatz raw material substitutions, but it also conveniently ignores the complexity of many plant products (i.e., ginseng) and dramatically increases the expense of production, effectively shutting down many small herbal wildcrafters and herbalists. Moreover, this scheme creates new opportunities for profit by synthesizing counterfeits of the "herb" that meet the biochemical profile regulatory standards but are significantly cheaper to produce. Only the larger companies, of course, have the resources to take advantage of this exciting opportunity.

There are many reasons why determining standardized biochemical profiles may be useful. Batches of harvested and processed herbal products may vary in quality and chemical constituents due to a range of factors including soil quality, local climate and weather, time of year harvested, and proximity of other specific plants. Misidentification and substitution with similar plant species, either accidental or intentional, are additional problems in the herbal industry. Whole raw or dried herbs may be inspected visually to glean some clues as to botanical identity and quality, but consumers who purchase pills, capsules, liquid extracts, or powdered herbs must largely trust the product manufacturer's ingredient label.

An independent laboratory that certifies herbal quality, much like Underwriter's Laboratory for household electrical equipment, would provide a valuable service by developing objective, verifiable reference standards for specific herbal products. Consumers who preferred certified products could decide to purchase only products with the seal of approval of the independent laboratory.

Pharmaprint, a U.S. company, has

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created a proprietary technology for standardizing constituent chemical profiles of herbal medicines, and has already developed such profile standards for saw palmetto, St. Johnswort, echinacea, garlic, goldenseal, ginseng, ginkgo biloba, saw palmetto, aloe, ma huang, ephedra, siberian ginseng, and cranberry. [1, 2, 3] Pharmaprint states that such standardization for these products is a first step in the process necessary for clinical testing and eventual FDA approval. Companies understandably strive to patent the procedure for preparing the chemical profile on an herbal product, so that the investment in research and development would be protected from infringement by other companies. (Note that while individual naturally occurring chemicals cannot be patented, the process by which a biochemical profile is determined apparently has been determined by the U.S. Patent Office to be patentable.)

If the certification process remains voluntary, and if consumers could still freely purchase the raw unprocessed herbal product, the added competition might help to improve overall industry standards and quality. Pharmaprint's technology has already been used to detect the presence of the dangerous pesticide quintozene in shipments of ginseng. [4]

However, all these advantages may be overwhelmed by the following risks if such standardization becomes mandatory and results in the removal of non-standardized products from the marketplace [5]:

- Mandatory certification of biochemical profiles would transform the herbal industry into a high-tech operation for which large corporations would have the distinct advantage of finances and resources.
- Mandatory certification would likely increase the costs of herbal products.
- Once a company obtained FDA approval for a standardized version of an herbal product, the company would have a clear financial self-interest in lobbying for regulations and legislation to make such product available only in standardized form and only with a physician's prescription, regardless of public denials of such intent.
- The biochemical complexity of many herbal products, such as ginseng, makes developing realistic chemical profiles that include all impor-

tant constituents a challenging task, and it is questionable whether such standardized profiles will guarantee all the important effects obtained from the whole herb.

- The regulatory standardization of biochemical profiles may tempt enterprising companies to cut costs by creating an ersatz concoction of chemicals that satisfies the regulatory profile, but that is not necessarily derived from the more expensive original plant material.

In Norway, which has some of the most restrictive supplement laws in the world, only patented biochemically-profiled preparations of certain herbs are available, and sales of the corresponding whole herb have been banned. The pharmaceutical companies have made them illegal to force consumers to purchase their patented products. With the proposed Codex Alimentarius standards (see below, "International tactics"), there is a significant risk that this situation may be imposed on the entire world, or at least all countries party to the GATT (General Agreement on Tariffs and Trade) treaties. [p2]

In America, the trend toward greater standardization and regulation is being countered by an opposite trend toward less intrusive regulation, as citizens recognize that regulation is only as trustworthy as the regulators. The current period of economic crisis and scandal, with corporate executives under scrutiny for accounting fraud and other forms of dishonesty, should lead us to demand that careful and thoughtful measures be taken to prevent such corruption, while at the same time, preserving freedom of choice which is the last defense against corruption resulting from collusion between corporations and government agencies. Voluntary, not mandatory, certification of biochemical profiles of herbal products is the most acceptable option in today's legal and political environment.

Choke off accurate information at its source - the educational institutions.

Tactic: As an intelligent, informed population of consumers and health care practitioners is undesirable to maximize product sales, choke off the information at its source - the educational institutions that train effective herbal clinicians. Achieve this goal by approaching schools and professional groups with offers of endowments for professorships, scholarships, research grants, and funding of professional accrediting bodies. After the schools and profes-

sional organizations become dependent on such funding, gradually begin to attach stipulations to these financial grants that limit the ways the money can be spent. By such means, encourage the schools to gradually diminish the most effective core clinical courses (such as traditional Chinese herbology) and to increase curriculum requirements in the sciences and in allopathic medicine; this can be easily achieved by appealing to a desire by many alternative practitioners to remedy their self-perceived second-class status relative to medical doctors. (For example, the Flexner Commission of 1909-1910 achieved excellent results in removing the study of plant medicines and pharmacognosy from accredited medical school curricula; physicians knowing too much about cheaper substitutes for pharmaceutical drugs may severely damage profits.)

While science education, in the larger sense of instilling in students the desire to probe the secrets of nature, is a crucial basis for material and social progress, the rote memorization of science factoids, as is common in many medical sciences courses, does nothing to enhance students' abilities in reasoning and creative problem solving. Moreover, when a program of study purporting to teach clinical skills in Chinese herbology gradually diminishes core clinical courses and substitutes them with abstract science courses, this serves no one. I'm reminded of dorm-mates at my graduate school who were involved in advanced scientific research, but needed basic advice in such kitchen skills as cooking an egg, how to make chicken soup, and why the dish soap needs to be rinsed off of the top *and* the bottom of the plates. When we train a generation of people in abstract mathematical skills, but with little ability to survive in the world, this will inevitably lead to disaster. Scientists whose theories seem brilliant on paper, but lead to havoc in the real world, are more the rule than the exception. Engineered genes that have spread far beyond their designers' original intent, the derivative-trading schemes of Nobel-prize winners that led to the collapse of billion-dollar companies, nuclear power that once promised to be so clean and inexpensive, but which has contaminated large areas of the earth's surface, are only a few examples.

Traditional Chinese herbology developed over a period of thousands of years, having been gradually refined and improved. Crises such as the period of world-wide epidemics of the Middle Ages led in China to the development of new theories and herbal formulas for understanding and dealing with epidemic illnesses. Rather than an analytic-reductionist science, it is a synthetic-inductive science that emphasizes skills of observation, pattern recognition, and gradual adaptation to new circumstances. It is neither less nor more useful than the analytic-reductionist techniques of western science, but complementary to them. In the same way that a knowledge of food chemistry does not guarantee success as a chef, a knowledge of physiology and biochemistry does not guar-

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antee success as an herbalist. While chemistry and biochemistry are undeniably useful disciplines, I know good cooks and herbalists who have little knowledge of either. I also know of herbalists who have extensive knowledge of both biochemistry and physiology whose clinical skills leave much to be desired - in other words, they do not get good results.

Many alternative health care professionals perceive themselves as being second-class doctors and may grasp at opportunities to increase their social and economic status. Perhaps the greatest weakness of the alternative health professions is this susceptibility to influence by the medical industry via the promise of greater status and financial rewards. Licensing, insurance and other third-party reimbursement schemes, and academic recognition are all valued perquisites that may become the currency of negotiation when the medical industry wishes to impose certain restrictions on their competitors.

The history of medicine reveals how educational institutions that train health professionals are often the first target of forces who wish to gain control of health care for political, financial, or ideological reasons. [i1] During the 12th century, the Catholic Church perceived the medical professions as a coveted base of political power, which it proceeded to absorb by first threatening with persecution, and then offering protection with the sanction of the Church by official licensure. Formal university programs in medicine were then altered with increased emphasis on theory, rhetoric, and philosophical speculations; at that time practical skills were associated with a lower status, and this attitude allowed the subjects of surgery and pharmacy to be excluded from the curriculum of many schools without much protest.

Centuries later, in the year 1910, the Flexner Commission in the U.S. employed a similar strategy in attacking botanical medicines by establishing a standard curriculum for medical schools prohibiting the study of botany and botanical medicines. [q2] U.S. medical schools that continued to emphasize plant pharmacology and natural remedies were blackballed by the Flexner Commission, leading to a cutoff of funding from the Rockefeller and Carnegie Foundations, which heavily funded the Regular (allopathic) medical schools. Botanically-oriented medical schools were forced to close their doors. As botanical physicians and homeopathic practitioners died, none took their place, effectively destroying these professions until the recent resur-

gence of herbal knowledge among both health professionals and lay people.

Currently, many TCM colleges, flush with enthusiasm over the successful acceptance and licensure of acupuncture in many states, have fallen for the lure of even greater status for their profession by more closely mimicking the curriculum at medical schools, forgetting why it is that people dissatisfied with medical care originally sought them out. The curricula at many TCM colleges have expanded course requirements in pathology and western sciences while slowly shrinking the core curriculum in traditional Chinese herbology. [j2] Many graduates of such schools are not prepared to use herbs safely and effectively in a clinical setting, either because they have knowledge of herbs obtained primarily through rote memorization rather than understanding and experience, or because they have little herbal knowledge since only a few brief courses were included in the curriculum.

Another mode of influencing TCM colleges and other schools of alternative health is to dangle the possibility of research grants for herbal studies. Of course, the favored research proposals will be heavily biased toward the western biomedical model of disease, not the TCM perspective. If enough money is at stake, it is amazing how quickly ancient traditions can be swept away in an eye-blink. During the past decade, investigating the potential for herbs in the treatment of AIDS/HIV has become a popular topic of research proposals and funding, even though there is still much controversy over whether the "HIV causes AIDS" model is even correct. Peter Duesberg, a Nobel-prize winning virologist, has written extensively on this debate [j3, j4], yet many alternative health institutions trip over themselves in haste to grab the research money and the status that attaches to it, willingly adhering to current medical orthodoxy to do so.

If key TCM professionals do not sound the alarm, they will wake up one day to discover that their profession has become a modified version of the physicians' assistant rather than an independent tradition with a unique and valuable perspective on human health, because they have discarded its wisdom in their pursuit of status.

Choke off competing health care options with mandatory state licensure.

Tactic: Under the guise of protecting the public health, safety, and welfare, en-

courage the alternative health professions to lobby for mandatory state licensure. The increased economic power (de facto monopoly) that such licensure provides will seem very attractive to members of these professions, greatly facilitating the exercise of corporate power and control via political lobbyists. Regardless of the regulatory agenda, loudly and righteously beat the health-safety-welfare drum if anyone begins to suspect corporate self-interest.

During the 1930's and 1940's, before the takeover of China by the Communists, the Nationalist government under Chiang Kai Shek sought to restrict and eventually eliminate the use of traditional Chinese herbs. [q2, k1] The first step taken by the Nationalist government was to require registration of all practicing Chinese herbalists. They were then required to study and pass examinations in the use of Western medicine, and just before 1949, these doctors were increasingly restricted from using Chinese herbs in their practices. Fortunately, the strong extended family tradition in China provided a safe haven for herbalists continuing to practice; most rural herbalists ignored the official government restrictions. During the Communist Revolution, Mao Ze Dong himself was treated by traditional Chinese doctors. After the revolution, he restored traditional herbal practice and established it as the major health care system of China, to be supplemented by Western methods when herbs and acupuncture were inadequate. In spite of the atrocities committed by Mao during the revolution, his health reforms to restore traditional practices were widely supported; in addition, he realized that Western-style health care would quickly bankrupt the fragile Chinese economy.

In the U.S., traditional Chinese medicine was popularized primarily due to media publicity which acupuncture received after Nixon's trips to China. Unfortunately, the herbal tradition rode into this country on the tails of acupuncture, and has taken a back seat ever since. In China, acupuncture and herbal medicine are often practiced separately. There is no logical reason why one must learn acupuncture to use herbs, or vice versa, yet the licensing laws in most states include Chinese herbs within the scope of acupuncture practice even though many acupuncturists have had little or no specific training in herbs. After somewhat heated professional turf battles, Chinese herbology remains under the yoke of the acupuncture profession. This, combined with the gradual deterioration of the core traditional curriculum in TCM colleges, has led to a situation in which Chinese herbology has experienced an enforced decline in the quality and extent to which it is taught.

Many people assume that licensing of the health care professions is the best way to assure standards of quality. However, licensure is only one of several options in achieving this goal. Private non-governmental certifi-

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cation of herbalists and other health professionals is one option that avoids the problems and corruption that may occur with mandatory licensure, which is a form of state-sanctioned economic monopoly. As discussed previously in this article, collusion of corporate influence with the power of the state is often a recipe for despotic forms of corruption.

In considering appropriateness tests which that be applied to licensing of a profession, mere economic convenience to the profession should not be a factor. The New Jersey Professional and Occupational Licensing Study Commission, which according to the U.S. Department of Health, Education and Welfare, "may provide a useful model for State licensing studies," used the following guidelines for deciding the merits of licensing particular groups [k2]:

"Their unregulated practice can clearly harm or endanger the health, safety and welfare of the public and when the potential for harm is easily recognizable and not remote or dependent upon *tenuous arguments*; and, The public needs, and will benefit by, an assurance of initial and continuing professional and occupational ability; and, The public is *not* effectively protected by *other means*; and, It can be demonstrated that licensing would be the most appropriate form of regulation." [italics added]

The disadvantages and dangers of restricting the practice of herbology to a privileged special interest group far outweigh any possible benefits to the public. To control and restrict access to a wide variety of plant products that have long enjoyed traditional usage and are well tested by experience would violate the common sense and historical experience of herbal traditions around the world. The English people during the rule of King Henry VIII felt so strongly about their right to freely use herbal remedies that the King was moved to make a declaration that lay herbal practice should remain free from restriction or licensure throughout the kingdom. [k3] The text of this document vividly describes the attempts of the medical profession to monopolize health care for economic gain and prevent poor people from obtaining inexpensive herbal remedies. King Henry's decree stands in striking contrast to the centuries of repression of herbal traditions by the Catholic Church.

Choke off accurate information by controlling the media, and punish independent media sources by withholding advertising dollars.

Tactic: Provide well-publicized awards, grants, and endowments to medical and public health researchers who study the biochemical effects of health products. This will help to train the population to think in terms of the unseen and difficult-to-verify world of biochemistry inside their own bodies and to place greater trust in the pronouncements of public health officials and scientists. Reward loyal media sources with advertising contracts and inside tips of "cutting-edge" scientific breakthroughs; punish disloyal media sources who continue to truly educate the public to think and decide for themselves by withholding advertising contracts and other forms of economic blackmail.

This tactic is a corollary of the basic marketing tactics, but with an emphasis on controlling the media. Conflicts of interest have been recognized to be serious on-going problems among medical journals and in scientific reporting generally. [m1, m2, m3] Drug companies that fund researchers to "prove" and then report the safety of the drugs they are being paid to test is a major source of controversy. Medical journals have policies that require authors to state any conflicts of interest, but such rules are frequently disregarded. Advertising dollars from pharmaceutical companies are a lucrative source of income, and offending one's advertisers can be costly.

Media bias in favor of pharmaceutical products has recently been replaced by a subtler form of media control. With the large amounts of money spent by the public on alternative therapies at stake, and with mergers and acquisitions of health product manufacturers blurring the boundaries between the pharmaceutical, herb, and food industries, the new media bias has been to reinforce the consumer focus on the biomedical model of disease, regardless of the type of product being promoted. As discussed previously under "Marketing abuses", consumers have been trained to ask for products that will provide them with the invisible benefits promoted by the media or which provide suppressive relief of symptoms without necessarily resolving underlying metabolic or systemic problems. Such consumers buy more, sometimes over their entire lifetime, because their problems are rarely

resolved, only alleviated temporarily.

Many health professionals have entered their chosen field because of a desire to help others, and they are decent, caring people. However, it is often these types of people who are most reluctant to admit the depths of malice, corruption, and deviousness to which some of their fellow human beings will sink to make a profit and to gain unfair advantages over others. In the interest of providing such individuals with a quick how-to manual in recognizing dirty tricks, see the article "Overcoming the Trickster: media wars of the 21st century". [m4]

Choke off the most tenacious critics with food and product defamation statutes.

Tactic: If and when a significant portion of the public begins to recognize the self-serving tactics of the health product industry, influence and prepare politicians to vote for "food defamation" statutes that apply criminal and civil penalties to the criticism of government-approved industry practices. Freedom of speech in this realm will damage corporate profits, and financial rewards to cooperative legislators will have been for naught if this tactic is not ready as a last desperate measure to protect investments. (Although Oprah Winfrey eventually won her case after being accused by the beef industry of food defamation for daring to discuss E. coli in hamburgers, she had to pay millions of dollars of legal expenses. This should discourage any lesser mortals from daring to criticize the products corporations have worked so hard to manufacture.)

Of all the tactics mentioned thus far, food and product defamation statutes are perhaps among the most flagrant assaults on freedom of speech. Some industries are apparently not satisfied with inflicting sub-standard and unhealthy practices on the public, but they wish to place a de facto gag order on the public as well, preventing such abuses from being reported and discussed in the media.

The widely publicized Texas Cattleman's case against Oprah Winfrey, in which she was accused of violating Texas food defamation statute by criticizing the sanitation of hamburgers on national television, was resolved in Oprah's favor. [n2, n3, n4, n6] However, the Texas court did not rule upon the constitutionality of the statute itself, leaving open the possibility of other actions in Texas under the statute. Thirteen other states had such statutes at the time of this lawsuit. [n1, n5] In the majority of states with such food-disparagement statutes, food critics may be held liable if they fail to substantiate their claims by "reliable scientific inquiry, facts, or data".

There are several serious constitutional issues that remain to be decided by future courts. The common-law standard prior to these statutes was that to establish libel or slander, the plain-

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tiff must establish that the defendant made false statements knowingly and with intent to defame. A person who sincerely believed what he said was the truth, especially regarding matters of public concern, was protected under the First Amendment's freedom of speech clause and under equivalent state constitutional requirements protecting the same. [n7] These food defamation statutes establish a lower standard for civil liability and allow for punitive damages to the plaintiffs if the defendant can be shown to fall short of the standards for "scientific inquiry". For most people, this is an impossible standard to meet unless they have professional training in microbiology and food science; the effect on public debate is chilling. Moreover, the statutes' allowance for both punitive damages and attorneys' fees for the plaintiffs alone, but not for defendants in the case of judgment in their favor, sets the stage for abusive litigation by food industry groups and corporations. Such statutes clearly favor food industries with preferential treatment and should be ruled unconstitutional.

Even though such laws are on the books in a minority of states, according to some legal opinions, a person could be held in violation of the statutes even if speaking or writing in another state, if such communications reach the state in which the statute applies. So effectively, these statutes have spread a nationwide pall on the freedom of consumers to express concern about specific products.

The food industry's desperation in lobbying state legislatures to pass food defamation statutes suggests they are truly afraid of public knowledge regarding the abuses inflicted on public health in the name of profit. After reading the book *Fateful Harvest*, which carefully documents the intentional contamination of agricultural fertilizer with heavy metal wastes, one cannot avoid reacting with outrage that not only have we been systematically, knowingly, and intentionally poisoned, but that corporate powers are demanding we suffer in silence!

Consumer, health, environmental, civil rights, and media groups should coordinate their activities to repeal these laws in every state while exposing the shameless and self-serving tactics of the food industry. Such laws have been repeatedly defeated in many states, after repeated attempts by the food industry to lobby for their adoption. A federal version of the statute has also been defeated.

International tactics

Expand the venue of expensive and restrictive regulatory schemes via international trade organizations and international treaties.

Tactic: Under the guise of protecting the public health, safety, and welfare and promoting international trade, establish international non-governmental organizations (NGO's) to "study" the advisability of international standards and regulations for agricultural products, herbs, dietary supplements, and pharmaceuticals. Emphasize the potential benefits in such standardization for international trade and conceal the self-serving advantages that such regulation would provide to a few international megacorporations.

International corporations have found the myriad customs and commercial regulations in the world's nations to be an obstacle to greater profits and ease of trade. There are currently tremendous pressures on governments worldwide to adopt treaties and international trade agreements that attempt to standardize specifications for products, including foods, drugs, and nutritional supplements. Such negotiations have been occurring for many years under the designation "Codex Alimentarius", often referred to as Codex. However, such negotiations receive scant coverage in the American media, in spite of the serious ramifications of Codex.

International legal battles for control of Internet content provide us with a glimmer of what may likely happen in the realm of commercial trade. Several countries, including France, have initiated lawsuits in their courts to impose French legal standards for acceptable Internet content on Yahoo! [p1a, p1b], a major Internet portal. Because most websites, such as Yahoo's, are readily viewable anywhere in the world, other countries are claiming that their own more restrictive laws must apply to such content. The net result of this, if such court cases are upheld, is that the most restrictive nation's laws will effectively censor the content of the Internet worldwide. Such a result is being widely protested by civil libertarians in many countries.

Codex Alimentarius is an attempt to prevent such disputes in the realm of ingestible products (food, herbs, drugs,

nutritional supplements), by preemptively deciding what is acceptable in international trade. The overwhelming majority of delegates to the Codex meetings, at least initially, have been representatives of the largest multinational pharmaceutical corporations, including Hoechst, Bayer, and BASF, the daughter companies formed in the breakup of IG Farben after the Nuremberg Trials. Unfortunately, the experiences of international Internet censorship are being replayed in the realm of food and drug products. The most restrictive nations are attempting to impose their standards upon the rest of the world. [p2, p3, p4] Germany and Norway have some of the most draconian prohibitions and restrictions on vitamin and supplements. Norway has outlawed many nutritional supplements, and the few it still allows are available only in levels at or below the RDA standards, which many scientists believe are set too low for many individuals' needs. [p5] Not only would the more restrictive German proposals apply to goods sold in international trade, but such restrictions would also apply to any goods sold within nations who are signatories of Codex trade agreements. GATT (General Agreement on Tariffs and Trade) nations who do not accept the new Codex standards may be fined heavily and have trade sanctions imposed upon them. [p3]

It is imperative that organizations concerned about freedom of choice in health care demand to be represented by delegates at the international Codex meetings. While mandatory restrictions play into the hands of the pharmaceutical cartels, to protect consumer choice it is necessary to steer the regulatory discussions toward a consensus on what constitutes honest disclosure and labeling of ingredients and quality. Moreover, imposing international standards on products that are manufactured and consumed within the same country is a violation of national sovereignty and serves no valid purpose other than to provide a backdoor for world government, a shaky and unproven idea. That such internal matters should even be on the table for discussion by an international regulatory body is arrogant and presumptuous; furthermore, it violates numerous aspects of our own state and federal constitutions.

Pretend to protect indigenous health care practices and native plant sources with toothless regulations and promises.

Tactic: Enhance the appeal of such international regulation and overcome resistance by including high-sounding, though toothless, provisions for protecting the rights of indigenous populations, local herbalists, and health care providers. Once the international regulatory agency is securely in power, these empty promises may be ignored insofar as such groups lack political and economic influence.

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Pharmaceutical companies have routinely appropriated the herbal knowledge of indigenous peoples worldwide; such activity has become known as biopiracy. Biopiracy has been defined as "the use of intellectual property laws (patents, plant breeders' rights) to gain exclusive monopoly control over genetic resources that are based on the knowledge and innovation of indigenous peoples." [q1] The sequence of events constituting biopiracy is typically as follows:

- Compiling interviews with local medicine men and shamans and screening for promising herbs to investigate.
- Gathering additional interview information regarding promising herbs, their history of use, mode of preparation, and medicinal uses.
- Determining biochemical profiles of active constituents by the use of proprietary methods which can then be patented.
- Developing genetically engineered, hybridized, or selectively bred varieties of the plant, which are then patented.
- Developing synthetically modified forms of active constituent chemicals for which patents are obtained.
- Lobbying governments and international trade organizations for restrictive regulations that provide the patented product a competitive advantage in world markets.
- Countering criticism of biopiracy operations by sponsoring noble-sounding conferences and agencies to "study" the problem, but that offer no practical mechanisms for implementing change.

The endpoint of this process is the disenfranchisement of the native population from the potential economic benefits of growing or wildcrafting the herb for sale in international markets.

Pharmaceutical companies often entice tribal medicine men to reveal their secrets by small monetary inducements. Consistent with international contract law and intellectual property law, ideas and information cannot be patented or copyrighted, and the corporations proceed to create patentable products

from which they benefit enormously at the expense of indigenous peoples. The practice has become so widespread that many local healers and medicine men have become outraged by their fellow "sell-outs", who, in many cases, were members of a society of medicine men who had agreed to not reveal such secrets to outsiders.

National governments should be taking greater action to protect the cultural resources of their people by scrutinizing the actions of international biopiracy operations more closely. Too many third world nations have eagerly accepted grant money from outside agencies, corporations, and governments to support the biopiracy operations, while, at the same time, neglecting the role of traditional medicine men in their national health care systems. The World Health Organization (WHO) has been guilty of promoting and participating in biopiracy operations, and national governments should insist that they receive more equitable treatment for their people. While organizations have met to address these problems (such as the Convention on Biological Diversity, 1993 December), too often the outcome has been to give lip service to the ideals of biodiversity and conservation, but provide no practical multilateral mechanisms to implement these ideas. By default, what remains in play are the same old bilateral contract negotiations between corporations, international agencies, and nations that have resulted in indigenous peoples cultural traditions being sold to the highest bidder and then gradually replaced with the patented biomedical alternative in that nation's own health care system.

A key issue in the debate over biopiracy is whether anyone should have the right to patent a living organism or process. [q2] Such patents have often been challenged by groups claiming that the key principles are based on processes which were formerly known by indigenous cultures, and which were effectively appropriated wholesale by corporations with little alteration or creative added value. [q5] In such cases, the awarding of patents seems clearly unjustified. One major problem with this approach is that it may only prolong the pharmaceutical companies' strategy of inflicting purely synthetic drugs upon the public and of avoiding research validating the direct use of phytochemicals. There are instances in which the use of natural plant products is combined with truly creative and unique processes that have resulted from expensive and time-consuming research, and companies understandably wish to protect their investments in such research. Another approach, described by Michael Gollin [q3], is based

on further refinements of contract law to promote and enforce the equitable international sharing of the benefits of plant research. Such contracts have become known as Access and Benefit Sharing Agreements (ABAs), which would provide access to natural botanical and genetic resources in exchange for a share of the benefits, including access to any resulting biotechnology and would result in motivation by the country possessing the botanical resource to conserve its biodiversity for future economic benefits to its people. Companies that violate the provisions of such contracts, or that continue to take plant resources without permission may find that any resulting patents may be legally challenged on the basis of fraud, violation of sovereign nations' laws, and the patent having been obtained from "forbidden fruits".

Even with the protections provided by Access and Benefit Sharing Agreements, there still remain thorny problems to be resolved regarding the patenting of living organisms and processes. One such problem is the potential uncontrolled spread of patented genetic material into the environment, other varieties of the same species, and even other species. To allow one company to have the potential to interfere and initiate lawsuits regarding all possible venues into which such genetic material may spread has already created legal nightmares for many individuals and businesses, one example being the spread of Roundup-Ready genes from soybeans and corn into other commercial crops and even weeds. [q4] Such concerns are properly the subject of ongoing international discussions, as the consequences are experienced by the entire world community.

Suggested counter-strategies

Many of the abuses outlined in this article involve collusion between corporations, government, and powerful non-governmental institutions such as media, universities, and professional associations. Such abuses will likely not cease without persistent public efforts to expose them and to resist their effects, such as consciously changing individual habits in purchasing health care products and services. Group and organizational efforts may also have a significant impact on such schemes, in contrast to individuals acting separately. Finally, both individuals and organizations need to become aware of the myriad ways that propaganda, corporate advertising, and disinformation are deployed to confuse the public. [m4]

While human behavior will never be perfect, there will always be those who believe that perfection can be attained by government decrees and regulations that require mandatory actions. In practice, because of corruption and collusion between industry and government, such regulations often have the opposite effect and provide a potent tool for increasing corpo-

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rate profits at the cost of public health, welfare, and freedom of choice. Enforcing a good idea by making it mandatory often transforms it into a bad one.

Restrictive licensing and certification are often assumed to be the primary ways to improve quality in health care products or services, yet voluntary private certification has often been successful in improving standards. There are several advantages to private, voluntary certification:

- The public is free to choose whether to patronize certified practitioners or to purchase certified products.
- As long as the public perceives the private certification agency to be honest and to have reasonable standards of quality, products and services so certified will likely be in demand.
- If, for some reason, the certifying agency becomes corrupted or more interested in the economic well-being of its industrial and professional members, the public has the freedom to avoid such products or services.
- Competing certification organizations may find a market for their services if existing certifications have become untrustworthy.

Another problem area has been the increasing legal status of corporations over several centuries of American history. At the time of the American Revolution, Americans were painfully aware of the abuses inflicted on colonists by the British Crown chartered corporations [r4], such as the Virginia Company, the Carolina Company, and the Maryland Company, which controlled all aspects of life within their dominion. As a consequence, the U.S. Constitution and common law tradition later placed corporations under strict regulation: corporations, being created by the state, could be terminated by the state if judged to be no longer in the public interest. Operating a corporation was not a right, but theoretically a privilege to be regulated at the pleasure of the state, in contrast to the rights of private individuals, which were recognized in principle to preexist independently of government decree.

After the Civil War, corporations took advantage of technical provisions of the 14th Amendment to increase their status as legal "persons". The landmark case of Santa Clara County v. Southern Pacific Railroad decreed that corporations were

persons, overturning previous decisions to the contrary. [r1] Most 14th Amendment court cases concerned the expansion of corporate privileges, rather than anything to do with the rights of former slaves. The result has been a gradual expansion of corporate privilege to an unprecedented level in American history, with a concomitant decrease in individual rights via contract law, which binds individuals to specific performance of contracts they may have signed to obtain corporate services and benefits. [r1, r2, r3] According to Ralph Nader, corporations should be declared to not be persons, to undo over a century of court rulings that have gradually given to corporations almost all of the rights of natural persons in addition to such privileges as an unlimited lifetime and limited liability.

Whereas formerly corporations were commonly understood to exist solely for the public benefit and at the pleasure of state legislatures, now many people assume that a corporate board's highest duty is to maximize profit for its shareholders. However, this was not always so, and is a modern distortion of basic principles of law. It is still, in principle and in law, possible for a state legislature to terminate a corporate charter if it judges that such corporation's abuses outweigh any possible public benefit. Corporate officers and lawyers know this and ensure cooperation from legislators by hefty contributions to political parties and campaign finances.

The educational institutions that train physicians and other health care providers are another vulnerable target for corporations. If future generations of health providers are indoctrinated in ideas and modes of thinking that are conducive to corporate profits, patients can no longer expect unbiased, honest advice. To avoid such an outcome and to protect indigenous forms of health care such as traditional Chinese herbology, the following suggestions are proposed:

1. The indigenous population and its health care givers must be educated in the possible modes of attack that they can expect from medical and pharmaceutical powers in the industrialized nations.
2. In collaboration with, and with the consensus of, indigenous health care providers and their people, prepare a written summary of important features of their health care system and the education of its practitioners. (The article "Modest proposals for improving traditional Chinese herbology education" [b6] is an example of such a description for

the practice of traditional Chinese herbalism.)

3. The summary of key features of the health care system should be considered as a de facto charter of freedom of choice in health care, distributed worldwide, posted on Internet websites, and called to the attention of special non-governmental watchdog groups formed for the purpose of advocating the rights to freedom of choice in health care world-wide. Such charters should be periodically reviewed to monitor potential violations by governmental regulatory bodies, and such violations widely publicized.

4. Encourage the continuation of apprenticeships as a form of education, as they are less susceptible to institutional forms of corruption and subversion.

State, national, and international Health Freedom organizations have mushroomed in the past few years, and have been successful in introducing legislation protecting unlicensed alternative health providers from malicious prosecution and upholding common-sense standards of honesty in disclosure of educational background and training. [r5, r6] In addition, the U.S. Dietary Supplement Health and Education Act of 1994 (DSHEA) [r7] provides additional protection to consumer freedom of choice. These types of legislation are good first steps in countering corporate abuse of the legislative process, but much remains to be achieved in the realm of public education.

I know of no safe depository of the ultimate powers of the society but the people themselves: and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform them.
-- Thomas Jefferson

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