

LEGAL MEASURES ON HOMEOPATHY IN THAILAND*

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ABSTRACT

Homeopathy treatment is a branch of alternative medicine that is the second most widely used system of medicine in the world and is the fastest growing. So many people now choose to use homeopathy as potential medicine. In Thailand, although this treatment is quite new, homeopathy is on a rapid rise and it is becoming a booming medical business.

However, many countries, including Thailand, still do not have the appropriate legal measures and standards for homeopathic treatment, which would enable this treatment to be adapted and applied for proper use. The result of the lack of a legal mechanism could lead to the following questions regarding the safety of homeopathic treatment or homeopathic products, the appropriate qualification of the product resulting from the effectiveness of the treatment and the health conditions for the treatment to be applied. Consequently, the consumers or patients are currently treated by unlicensed homeopaths and consume homeopathic products that are unregulated by law. The lack of such control systems leads to problems concerning the consumer protection and quality in healthcare for the patients, consumers and also public interests.

This thesis aims to study the problems of Thai law in controlling homeopath licensing and homeopathic products, and compares Thai law to the principles of foreign legislations such as United State of America and India for activities of all parties involved in Homeopathic treatment and products so as to analyze and propose a legislation solution to Thai law.

Keywords: Homeopathy, Alternative medicine

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บทคัดย่อ

โสมิโอฟาริย์ เป็นการแพทย์แขนงหนึ่งของการแพทย์ทางเลือก ซึ่งกล่าวได้ว่า เป็นการแพทย์ทางเลือกเพื่อการรักษาโรคที่เติบโตเร็วที่สุดและใช้กันอย่างแพร่หลายมากที่สุดเป็นอันดับที่สองในโลก นั้นหมายความว่า มีผู้คนจำนวนมากเลือกที่จะใช้โสมิโอฟาริย์เพื่อการรักษาอาการเจ็บป่วยของตน เช่นเดียวกับประเทศไทย แม้การรักษาด้วยแพทย์ทางเลือกแขนงนี้ จะเป็นแนวทางการรักษาที่ค่อนข้างใหม่ แต่ โสมิโอฟาริย์ ก็ได้รับความสนใจอย่างมาก และกลายเป็น การรักษาที่เป็นที่นิยมมาก

ขึ้นในธุรกิจการแพทย์ อย่างไรก็ตาม ในหลายประเทศ รวมถึงประเทศไทยยังไม่ได้มีมาตรการทางกฎหมายที่และมาตรฐานที่เหมาะสม สำหรับ โสมิโอฟาริย์ ซึ่งผลของการขาดกลไกทางกฎหมายจะนำไปสู่คำถามต่างๆ จากผู้เข้ารับการรักษา เช่น ความปลอดภัยของการรักษา หรือ ผลึกกันซ์โสมิโอฟาริย์มีคุณสมบัติที่เหมาะสม และมีประสิทธิภาพมากเพียงพอในการรักษาหรือไม่ ปัจจุบันมีผู้บริโภคหรือผู้ป่วยที่ได้รับการรักษาจากแพทย์แผนโสมิโอฟาริย์ซึ่งไม่มีใบอนุญาตในการรักษาตามกฎหมายสำหรับแพทย์แขนงนี้โดยเฉพาะ รวมไปถึงการบริโภคยาโสมิโอฟาริย์ซึ่งไม่ได้รับการควบคุมคุณภาพจากหน่วยงานที่เกี่ยวข้อง ซึ่งถือเป็นปัญหาสำคัญที่กระทบกับการคุ้มครองผู้บริโภคและการดูแลสุขภาพของผู้ป่วยรวมถึงประโยชน์ของประชาชน

ดังนั้น วิทยานิพนธ์ฉบับนี้ จึงมุ่งศึกษาถึงปัญหาของกฎหมายไทยในการควบคุมการออกใบอนุญาตให้กับผู้ที่ทำการรักษาโดยใช้การรักษาแบบโสมิโอฟาริย์ และ ยาโสมิโอฟาริย์ โดยศึกษาเปรียบเทียบกับหลักของกฎหมายต่างประเทศ อาทิ อเมริกาและอินเดีย ในกิจกรรมต่างๆ ของผู้ที่เกี่ยวข้องกับแพทย์แผนทางเลือกแขนงนี้ เพื่อทำการวิเคราะห์และเสนอแนวทางแก้ปัญหากฎหมายไทย

Introduction

Illness, disease or a medical condition is an unpleasant experience that occurs to the body and mind, as they are impossible to avoid. Although such health problems are more common issues for every person, society and age, no one wants to be unhealthy; however, illness has been a long-time significant problem to all human cultures. Nowadays, people have many self-healing treatments to choose from; nevertheless, it is obvious that most patients prefer to use western healthcare solutions, or it can even be called the mainstream or called conventional medicine or other names such as orthodox, or modern medicine (defined as “a general term for conventional healthcare based on the “Western model” of evidence-based practice for diagnosing and treating disease¹).

However, because of the increasing realization that conventional medicine is not the only answer for good health people around the world are now turning to other healthcare methods. For that reason, there are many patients choosing alternative medicine to cure their health problems instead of using conventional medicine.

Alternative medicine offers a variety of treatments, products, and ways to care for health. These treatments often vary from their origins and original methods. The treatment might be classified by origin of its culture or by its origin of belief. Each way of treatment

¹ Segen's Medical Dictionary, **Modern Medicine**, available at <http://medicaldictionary.thefreedictionary.com/modern+medicine> (last visited June 2, 2015).

might be combined with another by using the methods that have existed in a culture for a long time and may have been developed recently or possibly a thousand years ago.²

General Information on Homeopathy and Related Problems

In this regard, there is one type of alternative medicine, called homeopathy. Homeopathy is the most popular choice of alternative medicine. Homeopathy was first formulated and developed in Germany during the end of 18th Century or about 200 years ago.³ Currently, many Countries in Asia where Homeopathy is passionately embraced include India, Sri Lanka, Malaysia, and Japan. It is generally believed that homeopathy is one of the more compelling theories that has potential and promise to be used in various treatment stages.

Homeopathy or homeopathic medicine is a branch of the practice called complementary and alternative medicines, which is the practice of medicine that embraces a holistic and natural approach to the treatment of the sick based on the idea of a natural phenomenon of healing in that the body has the ability to heal itself.⁴

The basic principle of practically homeopathic healing is commonly referred to as the “Law of Similarity”,⁵ what means that any substance, which can produce symptoms in a healthy person, can cure similar symptoms in a person who is sick. This idea refers to a theory know as the “like cure like” of Hippocrates (460-377 B.C.), the Greek physician who known as the father of Medicine.⁶

As mentioned above, like cures like is the basis principle of homeopathy, a treatment system intended to cure an illness rather than simply hiding its symptoms. Instead of using an opposing force to suppress a symptom,⁷ homeopathy is founded on the idea that puts the same material that causes the sickness to the body, the body will receive more amount of the material and reach to the point called “The Trigger Point”. The Trigger Point is the stage at which the body has reached the point of transformation, reacting to the abnormality. This way of thinking has become using of vaccine in the world today.⁸

² ThaiCAM, **Definition of Alternative Medicine**, available at http://www.thaicam.go.th/index.php?option=com_content&view=article&id=110&Itemid=109 (last visited on 29 March 2015).

³ National Center for Complementary and Integrative Health, **Homeopathy: An Introduction**, available at <https://nccih.nih.gov/health/homeopathy> (last visited March 29, 2015).

⁴ WebMD, **What is homeopathy**, available at <http://www.webmd.com/balance/guide/homeopathy-topic-overview>, (last visited June 25, 2015).

⁵ Homeopathy Plus, **Law of Similarity**, available at <http://homeopathyplus.com.au/tutorial-1-the-law-of-similar/> (last visited March 2, 2015).

⁶ Greek Medicine, **Hippocrates**, available at http://www.greekmedicine.net/whos_who/Hippocrates.html (last visited February 2, 2015).

⁷ Words are Medicine, **The Power of Homeopathy**, available at <http://www.wordsaremedicine.com/the-power-of-homeopathy/> (last visited June 23, 2015).

⁸ *Supra* note 5.

As stated in the beginning of this article, people are now interested in alternative medicine, and homeopathy in particular. According to the World Health Organization (WHO), homeopathic medicine is the second most widely used system of medicine in the world and is fastest growing.⁹ A high number of people now choose to use Homeopathy as potential medicine. Although a considered a new treatment in Thailand, homeopathy is on a rapid rise and it is becoming a booming medical business.

In addition, as Thailand is set to be the medical hub of Asia, in order to ensure Thailand develops to that stage, the implementation of the Medical Hub Policy, is executing its second strategic five-year plan (2012-2016).¹⁰ The Ministry of Public Health of Thailand has formally supported the sector in an effort to promote Thai traditional and alternative medicines in hospitals nationwide.¹¹ An important strategy of Thailand is trying to attract thousands of international patients with its Thai traditional medicine and alternative medicines like homeopathy.¹²

Many countries, including Thailand, still do not have the appropriate legal measures, nor have set forth the standard for homeopathic treatment in order to adapt it for proper usage. The result of the lack of such legal mechanism will lead to the questions regarding the safety of homeopathic treatment or homeopathic products, the appropriate qualification of the product resulting from the effectiveness of the treatment and the health conditions for the treatment to be applied. All parties involved in the homeopathic activities, especially government or relevant agencies in Thailand and many countries where the homeopathic treatment is promoted into their national health systems, ignore stipulating legal measures on homeopathic services; unfortunately, this leads to more issues and problems in homeopathic treatment.

Presently, Thailand has a number of study programs related to the practice of using homeopathic treatment, despite the fact that they have no standardized teaching, lack ethics in using homeopathic treatment and applying non-standardized homeopathic products and services, many of which are shown on online advertisements.¹³ All of these concerns could lead to misunderstanding and could cause harm to the patients.

It is therefore very important and necessary to research and analyze the legal issues and problems pertaining to homeopathic treatment in order to draft the appropriate laws and regulations directly related to homeopathy. In order to provide useful information and regulate all parties involved in the homeopathic business in Thailand.

⁹ Laura Josephson, **A Homeopathic Handbook of Natural Remedies: Safe and Effective Treatment of Common Ailments and Injuries**, E-Book, Kindle Edition., August 13, 2002.

¹⁰ Fireworks Media (Thailand) Co., Ltd, **Thai Medical Expo 2014**, available at <http://www.thaimedicaexpo.com/?ref=infact> (last visited June 2, 2015).

¹¹ The Board of Investment of Thailand, **Thailand's Medical Industry**, available at http://www.boi.go.th/tir/issue_content.php?issueid=108;page=42 (last visited on 2 June 2015).

¹² *Id.*

¹³ Astro-Vision-Avenir, **Losing weight with Homeopathy**, available at http://www.astro-vision-avenir.com/Homeopathie_maigrir.149.Thai.html (last visited March 31, 2015).

Regulation on Homeopathy in Foreign Countries

Homeopathic treatment was accepted by many countries and those countries are stated the specified regulations for controlling the homeopath and homeopathic products in various ways. According to the research of the international homeopathic medical society known as Liga Medicorum Homeopathica Internatioalis (“LMHI”)¹⁴, in many countries homeopathy has gained official status in medical systems. In some countries, homeopathy has been officially recognized by the government as a system of medicine or medical specialty or alternative medicine,¹⁵

According to worldwide studies, the legal measures on homeopathy are divided into two circumstances as follows:

1. Controlling the Practice of Homeopathy

Control of the practice of homeopathy as a homeopath would be considered by related agencies that observe and control homeopathy. In each country, the control on the practice of homeopathy depends on the level of stringency. The lowest level of stringency of control will exist in the form of registration, to collect the homeopath’s information for records. If there is a stronger need for control, the form required will be certification proving the knowledge of the homeopathy that the homeopath has.

Homeopaths may obtain the certificate as homeopathic practitioners after successful completion of the homeopathy course and being observed after receiving the certification. The most stringent of control is to use the method of licensing. The homeopath must receive the license before practicing homeopathy to their patients. The license will be the proper tool to approve and ensure that this homeopath has a guarantee of a high level of knowledge of homeopathic treatment, and will be able to assume responsibility by using the law to enforce it if the homeopath does not follow the laws and regulations concerning the homeopathic treatment; as a result, the license of such of homeopath can be rejected and such homeopath will be punished by the relevant regulations.

For example, in the United States of America the practice of homeopathy is diverse. There is no national certification for homeopathic treatment in the U.S., but certification has been granted by each state. It is only in Arizona, Connecticut and Nevada where there are licensing boards for doctors of Medicine (holders of M.D. degrees) and doctors of osteopathic medicine (holders of D.O. degrees). Assistants in Arizona and Nevada also receive the License of the Homeopathy

¹⁴ Liga Medicorum Homeopathica Internatioalis, **Welcome to Our Website**, available at <http://www.lmhi.org/>, (last visited March 2, 2015).

¹⁵ Asociación Nacional de la Industria Farmacéutica Homeopática, **Homeopathy in the world**, available at http://www.congresoanifhom.org/Memorias_files/Estado%20Actual%20de%20la%20Homeopatía%20en%20el%20Mundo.pdf (last visited March 2, 2015).

Treatment for assisting and performing medical services observed by a homeopathic physician.¹⁶ Meanwhile, The Central Government of The Republic of India passed the Homeopathy Central Council Act. 1973 (“HCC Act”)¹⁷, which authorizes the Central Council of Homoeopathy (“CCH”) to promulgate the rules, to control Homeopathy education in India. If any institution or University desires to offer either a degree or a diploma to grant a qualification in homeopathy, it is required to apply to the Council, which prescribes the course curriculum¹⁸ and maintenance of a central register of homoeopath and for matters connected therewith in India.

2. Registration of Homeopathic Products

According to studies, homeopathic remedies can be distributed at pharmacies in many countries. Currently, Homeopathic Pharmacopoeia is issued by five countries¹⁹ as shown below:

1. German Homoeopathic Pharmacopoeia (GHP)
2. British Homeopathic Pharmacopoeia (BHP)
3. Homeopathic Pharmacopoeia of the United States of America (HPUS).
4. Homeopathic Pharmacopoeia of India (HPUI)
5. France Homeopathic Pharmacopoeia (FHP)

According to research, there are methods of registration of homeopathic remedies that are frequently used by countries around the world, which are:

1. One method is the registration of homeopathy in the area of medical law of each country, for homeopathic remedies to be registered. Normally, there would also be a law related to controlling the specific doctor who works in the field of homeopathy. For example, in India homeopathic remedies will be registered as a drug under the Law of the Drugs and Cosmetics ACT 1940 and the Drugs and Cosmetics Rules 1945,²⁰ and

¹⁶ NCCIH, **Licensing**, available at <https://nccih.nih.gov/health/homeopathy> (last visited March 2, 2015).

¹⁷ Central Council of Homoeopathy, **The Homeopathy Central Council Act. 1973**, available at <http://www.cchindia.com/hcc-act.htm> (last visited 1 June 2015).

¹⁸ The Hindu, **Homoeopathy**, available at <http://www.thehindu.com/edu/2005/03/22/stories/2005032200250300.htm> (last visited 1 June 2015).

¹⁹ WHO, **Safety issues in the preparation of homeopathic medicines**, Publication date: 17 February 2010, available at <http://www.who.int/medicines/areas/traditional/prephomeopathic/en/> (last visited April 22, 2015).

²⁰ 4(dd), the drugs and Cosmetics Rules, 1945 (Added under Government of India Notification No. F. 1-59 / 68-D, dated 19th Nov. 1969.), available at <http://www.wipo.int/edocs/lexdocs/laws/en/in/in022en.pdf> (last visited March 2, 2015).

allows only a registered homeopathic medical practitioner²¹ to use homeopathy. In the United States, homeopathic remedies are regulated as drugs under the Federal Food, Drug and Cosmetic Act (FDCA) 51; however, there are homeopathic remedies that are allowed into market without approval from the FDA, which are homeopathic remedies that contain active ingredients listed in the Homeopathic Pharmacopeia of the United States (HPUS). There must be a label on the product, outer container, and list of ingredients, specifying how much is the active ingredient diluted, and usage directions. Those homeopathic remedies that are for serious treatment such as cancer, must be sold by prescription. Only homeopathic remedies for minor health problems can be sold without prescription, such as a cold or headache remedies.²²

2. Another method is homeopathy registration in the form of natural products or dietary supplements. For example, Australia regulates homeopathy remedies as therapeutic goods.²³ Meanwhile, in Canada, homeopathy remedies are registered in as natural health products.²⁴

Conclusion and Recommendation

Although there has been so much research that indicates and explains the usefulness of homeopathy, the majority of people still do not fully understand how it works and there are also many misconceptions about this kind of treatment, which can lead a problem within the public society. Moreover, every kind of medical treatment, both conventional and alternative medicine (which also include Homeopathy), should be studied clearly and used by professionals based on standardization of knowledge, theory, and the right methods.

According to the standard of homeopathic treatment at the international level, homeopathy is accepted by many countries and those countries have stated specific legal regulations for controlling the homeopath and homeopathic products.

²¹ “Registered Homeopathic medical practitioner” means a person who is registered in the Central Register or State Register of Homeopathy (1Ins by G.O.I Notification No. G.S.R 680 (E) dated 5-12-1980)

²² National Pharmaceutical Control Bureau Ministry of Health Malaysia, **Guidance on Classification**, available at file:///C:/Users/BIG/Downloads/Guidance_on_Classification_oct2011%20(1).pdf (last visited May 22, 2015).

²³ Department of Health, Australian Government, **Australian regulatory guidelines for complementary medicines (ARGCM), Homoeopathic preparations required to be listed on the ARTG**, 2015, available at <https://www.tga.gov.au/book/types-complementary-medicines> (last visited May 22, 2015).

²⁴ Health Canada, **Evidence for Homeopathic Medicines Guidance Document**, available at <http://www.hc-sc.gc.ca/dhp-mps/prodnatur/legislation/docs/ehmg-nprh-eng.php> (last visited May 22, 2015).

Beginning with the United States of America, the legal measures for homeopathic practice are at the state level. It is only Arizona, Connecticut and Nevada that have licensing for homeopathy for doctors of Medicine (holders of M.D. degrees) and doctors of osteopathic medicine (holders of D.O. degrees); however, homeopathic remedies are regulated as drugs under Section 201 (g) of the Food, Drug and Cosmetic Act (FDCA). In India, homeopathy is the part of mainstream medical system with a number of homeopathic practitioners. With the belief in this kind of patient treatment and also the benefits to the geography, specifically, the cultivation of plants that can be used as homeopathic medicine, the Indian government moved a resolution in the legislative assembly for the recognition of homeopathy.

For now, turning to Thailand, there are no laws related to homeopathy in Thailand regulating the homeopath who practices homeopathy to their patients and to control the quality and safety of homeopathy products. This could possibly affect the public interest, so it is very important for the Thai government to be involved in generating specific legal measures related to homeopathic treatment. There should be a registered organization within the government to certify and register both the homeopath who practices homeopathy and homeopathic products. There should be a specific organization to provide knowledge and advice to the public as there are many people who are not homeopathy professionals who will dishonestly use this opportunity to gain profit from the patients since there are no laws related to homeopathic treatment, and this will result in the harm to many patients and as well as the Thai public interest in the future.

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