

RECENT DEVELOPMENTS RE: BILL C51 & NHP INDUSTRY

While the Canadian election has come and gone, substantial problems still remain with the natural health products industry and the federal government's intentions to regulate this business.

Familiar to most, has been the Conservative government's tabling of Bill C51 & its companion, Bill C52 this past April, 2008. Due to the timely critique by Shawn Buckley, a lawyer from Kamloops BC, members of the NHP industry and the public raised the alarm all across Canada. This resulted in sufficient delays in advancing the federal government's agenda, such that the two Bills died on the order table when the election was called in September.

However, it should be noted that at the all candidates meeting in early October in the riding of Health Minister Tony Clement, Minister Clement advised the public in attendance, that the Conservative government would bring back Bill C51 were they to be re-elected. Given that we are now faced with another Conservative government, it would be fair to suggest that these two Bills will be tabled in Parliament at some point in the future, most likely early in 2009.

Coupled with this scenario, are two other points that need to be kept in mind -

- 1) Health Canada has given the NHP industry a 'drop dead' date of April 2010; this date is the timeline prescribed by HC back in 2004, when the new regulations / NHPD came into force. There was a 6-year phase in period, at the end of which, the industry was expected to be in full compliance with the new regulations.

This issue is front and center with a group of active CHFA members who have been meeting regularly for a number of months now. While they do not represent the CHFA in their deliberations, they are hugely divided as to how to handle this. Some feel that they should give the new NHPD director Michelle Boudreau, time to work out a solution, others feel that they must be pro-active to ward off serious problems that will arise after April 2010.

As a side issue, it is also important to note that Ms Boudreau is also a lawyer; has served as a very close advisor to previous HC / NHPD personnel, and is known in upper management of Health Canada as a 'fixer'...

With relatively few NPN numbers granted for the more than 50,000 nhp products currently in the market, and with the slow rate at which products are being granted such a number, the remaining 18 months provide little relief to the SME portion of this industry.

- 2) In a conversation with a very well respected member of the NHP community, I was advised of the following: that during a compliance inspection of his facility by Health Canada officials, they had stated that they anticipated a rationalization of this industry

to be completed by the end of 2010, with 50-60% of the industry (SME's) failing to achieve regulatory compliance with regards to their products.

These products would have to be removed from the marketplace, or the company would – under a renewed Bill C51 / 52, face severe financial and other punishment.

As a former member of this industry, I believe that this figure is too conservative. Without any significant movement on the part of Health Canada, the numbers are more likely to be in the range of 70-80%. Products that have been slowly disappearing from the marketplace, will ramp up in their exodus from the natural health food stores. And if I may go out on a limb, in 5-7 years time, there will be precious few stores left, their product line(s) having been decimated by the increased enforcement, and mass merchandisers taking up what's left in the market, at high volume discounted prices.

Such is the very likely scenario for the natural health food industry here in Canada, and already in other places – Europe, Australia, etc, around the world.

It bears re-emphasizing that the written intent of Bill C52, was to formally recognize in law, that foreign laws could be transferred into Canadian law, without the benefit of Parliamentary oversight, or democratic review. Everything else - spin-doctoring on protecting the public from harm, responsibility of governments, et al, is window dressing at best, and the mark of a government that has sold its 'social contract' with the people, to the highest bidder.

I draw your attention to previous Reports, wherein I have detailed the expanding influence of CODEX / WTO initiatives; Bill C52 will – if passed, provide legal foundation for this to be realized here in North America.

If I were to offer a distillation of events from the very beginning (2000+), I would say that they have not deviated one iota from their game plan; that the words offered thus far to the industry, have been without substance or real concern; and that we are on track for the decimation of this industry.

I intend this to be sobering news for the various groups that I deal with; and while a number are practitioner based, and may therefore feel themselves exempted from most of this, it is worth noting that all will be caught up in this new broom that will be sweeping through this industry in the next year or more. Unregulated practitioners are equally exposed; and in spite of an exemption given to herbalists in Canada, attempts to import herbal and other formulations will be met with increased resistance at the border.

The question facing most in this industry, the public & the professionals is this:

What did we really achieve back in '98 with the acceptance of the NEW VISIONS Report?

Nothing really... perhaps its time to march on Rome again.