



## Complementary and alternative medicine, medical liability and the proper standard of care



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### ABSTRACT

Complementary and alternative medicine raises growing interests among population. Patients have the right to reject conventional medicine and instead look for a different treatment, even if sometimes is a placebo. However, currently this risks being a reckless decision, since the way complementary and alternative medicine is being provided leaves space for fraudulent practices, misleading information, wrong diagnosis, improper treatments and thus severe patient's injuries.

This paper will discuss the standard of care to be demanded from providers of complementary and alternative medicine. The paper will sustain that it should be bound to a CAM specific standard of care, expose the reasons for this solution and describe the consequences derived therein. It will conclude that the solution to protect CAM users does not rely in the extension of conventional standard of care to CAM practitioners, but in more regulation and more control for CAM practices and CAM practitioners.

### 1. Introduction

To look for complementary and alternative medicine (CAM) became almost a trend in recent times, leading many patients to reject conventional medicine (also called orthodox medicine) in favour of another version of medicine, CAM. The qualification of CAM as a modality of medicine, alongside with conventional medicine, is in itself controversial, but this paper will assume that it is so, as its very designation implies.

This study will use the designation complementary and alternative medicine [1] to present it as another form of medicine. However, some jurisdictions opted for different designations, as a way to underline that it is not considered a form of medicine, conventional medicine being the only medicine accepted. For instance, in Portugal it is commonly called 'non-conventional therapeutics' and in France it is referred to as 'unconventional practices with a therapeutic aim'. However, all documents issued by the World Health Organization on CAM [2] also rely on its qualification as a form of medicine and several authors converge on its classification as a form of medicine. Doyle, for instance, refers to CAM as 'an alternative school of medicine' [3].

Currently patients that look for CAM might be putting themselves in a reckless situation due to the lack of regulation and the inability of courts to deal with medical malpractice of CAM practitioners. Fraudulent practices, misleading information, erroneous diagnosis and

improper treatments are frequent (although some of these incidents are also frequent in conventional medicine), with the aggravating note that the standard of care for CAM providers is not clear. The definition of the proper standard of care is crucial for patients, so they can conform their expectations in what regards the type of health care to be provided by CAM practitioners. It is relevant for CAM practitioners, because they must know what is expected from them – by patients, health authorities, and courts – in what regards their services. It is also important for the ones that will assess the activity of the CAM providers, especially for courts in case of legal proceedings.

The paper will start by taking a posing regarding the standard of care applicable to CAM, sustaining that it is a specific standard of care. Subsequently, it will analyse the consequences of this solution in particular malpractice scenarios. Finally, it will propose some measures to face the possible drawback for patient safety that arise from the adopted solution.

### 2. Concept of CAM

The designation CAM is used to refer a wide panoply of therapies, such as Traditional Chinese Medicine (TCM), acupuncture (assuming this is an independent modality of TCM), electroacupuncture, bioresonance, homeopathy, herbal medicine, reflexology, Ayurvedic medicine, among others. It includes therapies which are complementary to

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medicine (this is the case of aromatherapy when used to lessen discomfort after surgery) and therapies that are used as alternatives or substitutes for medical treatments (for example, a diet as a treatment for cancer instead of undergoing chemotherapy).

CAM modalities are so different amongst them that it is difficult to provide a comprehensive definition. In general, all of them share two essential features: its efficiency is undemonstrated and it could hardly be scientifically demonstrated in clinical trials and other scientific studies [4]. Even though there are currently several studies and clinical trials involving CAM, these two features still apply. Albeit some CAM therapies have indeed reached to demonstrate satisfactory results in several parameters, CAM efficiency continues to be mostly undemonstrated, as some studies have concluded [5,6]. This note is precisely what qualifies a therapy as a modality of CAM, otherwise it would be another form of conventional medicine [7]. On the other hand, the usual scientific methods to assess conventional medicine can hardly be used in CAM due to its characteristics. The holistic CAM approach cannot be mimicked by randomised clinical trials and the individually defined CAM treatments do not fit the generalist nature of current scientific studies.

CAM intends to provide health care through a holistic view of the human being, considered this in interaction with the physical and social environment. It does not rely in the methods of conventional medicine nor, consequently, on the use of pharmaceutical drugs. In alternative, CAM uses the features of the human body itself, mostly its capacity of self-healing [1]. These notes explain why so many people have turned to CAM in recent years [8] and the fact is that in 1998 Brody [9] considered CAM ‘the largest growth industry in health care today’.

However, the main virtue of CAM results in its main fragility: the fact that it does not resort to fancy technology and complex scientific procedures makes it very appealing for some, but at the same time raises concerns about its lack of scientific evidence. Many accuse it of being not more than folk remedies, superstitions and quackery.

This paper does not intend to advocate for or against the use of CAM, even though some remarks indirectly are relevant for that discussion, but to analyse the standard of care to be used in CAM and the consequent medical liability associated it. The use of the expression ‘medical liability’, instead of simply ‘liability’, also demonstrates that the paper considers CAM a (different) form of medicine.

### 3. A standard of care for CAM

CAM has not, until now, been the subject of serious malpractice litigation [10]. Several reasons explain the state of grace in which CAM has existed until now: the fact that CAM is perceived as involving minor risks to their users [11], the perception of CAM more as a life-style routine than a real medicine [12], the kind of relation build between the CAM practitioner and the patient [13], the pro-active role of CAM patients in their own healing process, making them also responsible for the outcome of the treatment [10]. In this regard Cohen [10] uses the expression ‘collaborative venture to health’ to describe the collaboration between CAM providers and CAM receivers.

Nonetheless, the overall number of lawsuits is likely to increase. Some CAM specialities are more exposed to litigation than others. For instance, chiropractors tend to have several lawsuits, maybe because techniques of spine manipulation can sometimes lead to serious injury [3]. As the number of patients using CAM increase, the number of CAM practitioners also increases to respond to the high demand. Consequently, their activity will be forced to become more regulated and the legal system needs to prepare itself for CAM malpractice claims, namely, it must define the standard of care to be required from CAM providers. A clear definition of the standard of care to be expected from CAM providers is crucial for imposing accountability and protect its users.

The standard of care is a legal term usually defined as the degree of care and skill of the average health care provider who practices the

provider's specialty, taking into account the medical knowledge that is available to the physician [14]. In other words, the standard of care includes all the typical actions a reasonable doctor of a given specialty may take in any given medical circumstance.

In what regards CAM standard of care two solutions can be adopted: either the application of the same standard of care valid for conventional medicine either a CAM specific standard of care.

#### 3.1. The same standard of care of conventional medicine

According with this position the standard of care of conventional medicine should apply because the practitioner of CAM holds himself as a doctor specialised in the treatment of certain medical conditions, therefore, his/her behaviour shall be guided by exact the same rules of those who treat the same medical conditions in conventional medicine.

This is, clearly, the most protective solution for CAM users, because they end up being protected by two standards of care: the one exclusive of CAM (each CAM therapy has its own proceedings) and, in addition, the one of conventional medicine.

However, for CAM practitioners this is a particularly demanding solution, since the mere fact that they use methods that deviate from accepted medical practices constitutes a violation of the standard of care and will held them liable.

This position was sustained in some court cases, one of the most well-known being the decision about the Gonzalez Regimen, led by Dr. Nicholas Gonzalez. The Gonzalez regimen is a complex cancer treatment that includes pancreatic enzymes, specific diets, vitamin and mineral supplements, extracts of animal organs, and coffee enemas. Some of these elements are indeed associated with cancer prevention, but none of them was ever proved efficient in cancer treatment. We hardly have clinical data exist on the effectiveness of this regimen as a cancer treatment and the few existing ones reached conflicting results. In a case involving this regimen the Supreme Court of New York said: ‘The standard for proving negligence in a malpractice case is whether the treatment deviates from accepted medical standards ... it would seem then that no practitioner of alternative medicine could prevail on such a question as the reference to the term “non-conventional” may well necessitate a finding that the doctor who practices such medicine deviates from “accepted” medical standards. This indeed creates a problem for such physicians which perhaps can only be solved by having the patient execute a comprehensive consent containing appropriate information as to the risks involved’ - *Charell v. Gonzalez*, 660 N.Y.S.2d 665, 668 (N.Y. Sup. Ct. 1997). In other words, deviance from the standard of care of conventional medicine is, only per se, a breach of the standard of care and constitutes ground for a malpractice lawsuit. Therefore, CAM practitioners have to comply with the same standard of care applicable to western medicine and cannot invoke a hypothetical standard of care specific to CAM to protect them from litigation.

#### 3.2. A specific standard of care for CAM

The thesis that CAM should follow (and thus should be evaluated in light of) a specific standard of care is based in two different arguments.

On the one hand, the reasons leading to the use of CAM. Patients look for CAM because they reject conventional medicine (maybe because of their cultural background, or a passionate belief in the superiority of the alternative therapy or simply because they are afraid of undergoing surgery) and prefer to receive a different kind of treatment, thus, that is what the patient shall receive. If in the end the patient is not satisfied with the treatment provided and/or the outcome, litigation is an option, but in court the patient cannot complain because he/she has not received a treatment in accordance with the standard of care that he/she previously rejected. This would be a *venire contra factum proprio*, that is, a contradiction with the patient's previous behaviour that does not deserve legal protection.

On the other hand, the very classification of CAM as

‘complementary’ and ‘alternative’ medicine, thus, as something different from conventional medicine, as underlined by Fan [15] even though the author was solely referring to TCM. If CAM is not conventional medicine it would be illogical, unpractical and even unfair for CAM providers to demand from them the same behaviour that is required from conventional doctors. If that was the case CAM won't be considered as that anymore, but simply considered conventional medicine.

This thesis found acceptance in some court proceedings, namely in the Shakoore case -Shakoore (Administratrix of the estate of Shakoore (deceased) v Situ (t/a Eternal Health Co). All England Reporter/2000/Shakoore (administratrix of the estate of Shakoore (deceased) v Situ (t/a Eternal Health Co) - [2000] All ER (D) 676 - discussed in British courts. Mr Shakoore suffered from a benign lipoma, a skin condition that is not health threatening, but that causes discomfort because of fat tissue that appears underneath the skin. Instead of accepting the surgical treatment provided by conventional medicine Mr Shakoore went to a UK based Chinese herbalist, who had trained for several years in China, becoming an expert in herbal medicine. The herbalist prescribed him a mix of herbs, including Bai Xian Pi, to be taken during several days, but after nine doses Mr Shakoore started feeling nausea, was vomiting and suffering several other discomforts. He has diagnosed with hepatic necrosis and eventually died. The autopsy detected *dictamnus dasy-carpus* (Bai Xian Pi), a substance known in western medicine as being hepatotoxic.

A strong evidence against the defendant was an article published shortly before this incident in a reputed conventional medical journal, *The Lancet*, alerting for the risks of the referred herb for liver conditions. Being such a well-known medical journal it seems the defendant had no good reasons to ignore it. However, the Chinese herbalist did not read the *Lancet*, nor any other publication of conventional medicine and actually he was totally unaware of the discussions going on in conventional medicine. His knowledge was restricted to the issues discussed in Chinese medical textbooks and periodicals of Chinese herbal medicine, in light of which he believed the prescription to be completely safe.

The Court reached two conclusions. First, that the defendant had acted in accordance with the standard of care appropriate to traditional Chinese herbal medicine. Secondly, and therefore, that he had not been in breach of his duty of care. In sum, the Court held that the defendant's behaviour could not be evaluated according with the standard of care of conventional medicine, but instead in light of the standard of care followed in its particular area of therapy. According to the court, ‘is not guilty of negligence if he has acted in accordance with the practice accepted as proper by a responsible body of medical men skilled in that particular art ... Putting it the other way round, a man is not negligent, if he is acting in accordance with a practice, merely because there is a body of opinion who would take a contrary view’.

#### 4. Position sustained: a specific standard of care for CAM

Like the Court in the Shakoore case, this paper sustains that the standard of care that applies to conventional physicians should not apply to CAM practitioners, who must be judged according to the standard of care recognized within the field in which they are licensed.

In spite of both being modalities of medicine, they rely in different premises. Conventional medicine counts with a well-established scientific base and operates by mean of standardized protocols. In contrast, CAM lacks a proper scientific base and uses an approach that is more philosophical than technical. Its patient-centred nature makes it an individualised approach to healthcare. Therefore, CAM requires its own standard of care, moulded to its specificities.

This solution applies to practitioners that are not licensed to practice conventional medicine. If that is not the case and the CAM doctor is authorized to provide conventional treatments both standards of care – the one of CAM and the one of conventional medicine – will apply. In

fact, in this case the CAM doctor cannot dodge responsibility for not having provided the best care to the patient alleging his/her lack of awareness about conventional medicine, since he/she is indeed knowledgeable of conventional medicine and could have used that knowledge to provide better care to the patient. A well-known case of malpractice within CAM involved Dr. Woliner, an US conventional doctor that presented himself as a holistic doctor. The medical license of Dr. Woliner was revoked by the Florida Board of Medicine after he decided to treat a patient previously diagnosed with cancer with a ‘holistic treatment’, arguing that the symptoms revealed by the patient were not due to cancer but to allergies and based on his recommendation the patient quit all conventional treatments. Eventually the patient died, even though her cancer was very treatable. Dr. Woliner argued that he was not required to use the standard of care of conventional doctors, but only to a specific standard exclusive of holistic medicine [16]. However, his argument cannot stand. Dr. Woliner was also a conventional doctor; therefore he was required to use knowledge of conventional medicine. That is, even when applying holistic treatments he still had to comply with the conventional standard of care.

Several consequences derive from the existence of an autonomous standard of care for CAM.

First of all, the care provided by CAM practitioners is not deviant or unlawful just because it does not follow the canons of conventional medicine. Otherwise, CAM providers would be systematically in contravention since they rarely deliver the same treatment a conventional practitioner would provide. There is no point in recognising the existence of CAM and allowing CAM services to be provided, and then holding its practitioners accountable for the simple fact that they offer CAM services.

Secondly, different regulations should apply to these two forms of medicine [13]. Some issues might be common to both and regulated by one same statute, but each of them has specificities that must be taken in consideration, such as the academic preparation required from practitioners and the procedure for licencing.

Furthermore, expert testimony in court proceedings involving CAM practitioners cannot be done by doctors of conventional medicine, obviously unaware of CAM's specificities, but by practitioners operating in the very same field of the defendants. The exception will be when there is an overlap of expertise between conventional medicine and CAM, that is, when the level of knowledge and expertise required from the CAM practitioner is the same that would be required from a conventional medicine practitioner. This exception was stated by US courts in *Rosenberg v. Cahill* 492 A.2d 371 (N.J. 1985).

Finally, CAM specific standard of care has its own sources: guidelines provided by professional associations, Codes of Ethics developed by CAM practitioners, books and ancient knowledge. For instance, the American Association of Naturopathic Physicians has issued specific guidelines for naturopathic medical practice and the National Commission for the Certification of Acupuncturists, also in the US, has established specific technical procedures for assessing professional certification [10].

Those sources might not be sufficient to solve every single situation (assuming that, at least for certain therapies, the standard of care is not as developed as in conventional medicine), leading some authors [17] to suggest that in those cases medical consensus should apply. However, that has to be the medical consensus amongst the doctors of that specific CAM therapy, not of conventional medicine (unless the referred overlap of knowledge verifies), otherwise, the very idea of an autonomous standard of care would lose content.

However, the recognition of a specific standard of care for CAM does not exclude CAM providers from complying with the existing laws. This means that CAM practitioners cannot prescribe substances considered illegal by the existing laws (for instance, he/she cannot prescribe marijuana in the jurisdictions where that substance is banned), nor procure results legally prohibited (such as to cause an abortion in

violation of the legal parameters).

## 5. Possible scenarios of medical malpractice in CAM

Several situations can involve the CAM practitioner in medical malpractice: lack of license, misdiagnosis, failure to monitor and report adverse effects, nondisclosure of conflicts of interest, fabrication of research data. The paper will analyse three particular scenarios: omission to refer the patient to conventional medicine, prescription of herbal products and failures in providing information.

### 5.1. Omission to refer the patient to conventional medicine

CAM practitioners have been held liable for not referring the patient to a doctor of conventional medicine, thus failing to identify that the patient's condition require treatments only provided by the latter. This omission may lead to the progression of the patient's illness, sometimes making it untreatable, even if beforehand chances of a successful treatment were high.

Convictions based on the violation of this duty are frequent in US courts, especially with cancer patients [18]. According with the most updated data only conventional medicine may treat cancer successfully [19] and 'cancer patients who initially chose treatment with AM without CCT were more likely to die' [19].

For instance, in *Schneider v. Revici* (817 F.2d 987 2nd Cir. 1987) a physician treated his breast cancer patient with selenium supplements and dietary restrictions, but the tumour grew so much that ultimately the patient had to undergo bilateral mastectomy. A couple of years later the same Dr. Revici was again involved in another lawsuit - *Boyle v. Revici* (Boyle v. Revici, 961 F.2d 1060 2d Cir. 1992) - for prescribing alternative treatments to cancer patients.

In 2016 a high profile case was the death of Chinese actress Xu Ting, who after being diagnosed with a lymphoma decided to reject chemotherapy in favour of TCM. The disease developed very quickly and even though after a few months Xu Ting resumed conventional treatments by that time the lymphoma was in such an advanced stage that she died after a short time.

CAM doctors must recognize the limitations of their respective therapies and comply with the duty to refer the patient for a conventional physician [3,4,20].

However, for that assessment the CAM doctor is only required to use the particular knowledge of his/her CAM practice. If by chance the decision to recommend conventional treatments could only be taken using knowledge specific of conventional medicine, not accessible to a regular CAM doctor (thus, excluding the cases in which the CAM doctor is also a conventional doctor) the CAM won't be required to make that assessment.

What we can discuss is weather a CAM doctor is able to assess that the best treatment for a cancer patient is the conventional one. In light of current scientific knowledge, it is fair to assume that the reasonable CAM doctor (the reasonable person criteria applied to medical practice) would conclude that only conventional medicine is able to treat cancer. CAM can be used to alleviate some of the negative syndromes of the disease and/or of the treatment (for instance, the use of aromatherapy to alleviate nausea from chemotherapy), but not for treating cancer itself [21].

In what regards other medical conditions might not be so easy to assess if CAM is or is not suitable. In *Kerkman v. Hintz* (Supreme Court of Wisconsin, 418 N.W. 2d 795 1988) the Supreme Court of Wisconsin stated that a chiropractor was not required to conclude that a cervical subluxation should be treated with conventional treatments instead of chiropractic treatments. According with the Court, 'a chiropractor has a duty to (1) determine whether the patient presents a problem which is treatable through chiropractic means; (2) refrain from further chiropractic treatment when a reasonable chiropractor should be aware that the patient's condition will not be responsive to further treatment;

and (3) if the ailment presented is outside the scope of chiropractic care, inform the patient that the ailment is not treatable through chiropractic means. In determining whether a chiropractor breaches these duties, the chiropractor is held to that degree of care, diligence, judgment, and skill which is exercised by a reasonable chiropractor under like or similar circumstances'. Based on this decision chiropractic doctors in Wisconsin have been exempted from the duty to refer patients to conventional doctors.

Some indicators may be mobilize by the CAM doctor to evaluate if the CAM therapy is able (or not) to deal with the patient's condition. Whenever the CAM doctor cannot do a diagnosis, or the patient is not responsive to the treatment prescribed, or the doctor concludes that the treatment the patient needs cannot be provided by him (because he does not have the knowledge nor/or the authorization to do so), the CAM practitioner shall conclude that CAM is not suitable for that patient and/or for that condition [22].

### 5.2. Prescription of herbal products

Herbal medicines and other supplements are the fastest growing sector in CAM, but also one of the more controversial. Unlike what happens with drugs, submitted to extensive panoply of studies and clinical trials, most products used in CAM are hardly submitted to any type of research. The CAM doctor should not rely on the fact that because the product is traditional and used for centuries is innocuous, or that being a natural product no risk is involved. Actually several same adverse event have been connected to CAM [23]. One of the greatest concerns is that most CAM therapies have not yet been the subject of sufficient studies, thus, injuries resulting from their products are not recorded not analysed.

Some plants might be safe when used isolated, but when combined with other products they might produce adverse events. Special problem may arise because of drug/herbs interactions. Many patients are being treated simultaneously by a conventional doctor and a CAM doctor, using drugs and herbs, a situation which requires strict patient's follow up. They rarely tell to their conventional doctors about the duality of treatments, but they usually convey that fact to the CAM doctor, which means that the latter is the only one in position to do that follow up [23].

For all these reasons is of utmost importance for CAM providers to monitor their patients very closely during and after the treatment [20]. Patients monitoring is also a duty for conventional doctors, however, in what regards drugs we have more knowledge about their adverse reactions, whereas concerning CAM products the information available is very limited.

### 5.3. Failure in providing information

Patient informed consent seems to be still in a very preliminary stage in CAM, as concluded by a study performed in 2010, even though the study has a few years it shows how the delay when compared with conventional medicine [24].

One of the conclusions of the study was that few CAM doctors have written consent forms and that the amount of information provided was quite low, because most CAM doctors got the impression that patients looking for their services would not enter into litigation. Many CAM doctors even considered informed consent to be exclusive of conventional medicine and not applicable to practices which are more based on tradition than on science.

On the opposite, some have argued for a more demanding standard for informed consent in what regards CAM, based on its classification as an experimental practice due to the lack of scientific validation [25]. If that were the case, indeed, CAM's informed consent would have to be more detailed, based on the higher level of demand imposed for experimental treatments. However, for CAM to be considered experimental many practices of conventional medicines would also be

considered as that, given that they also lack proper scientific base until now [26]. On the other hand, experimental practices have for aim to collect data for further research, whereas CAM has the same therapeutic aim assigned to conventional medicine [27]. So, it should follow the same level of demand required to the latter, according with the different levels of risks involved in the different CAM treatments.

In order to comply with the requisites of informed consent the CAM doctor must inform the patient about the treatment that it is going to be provided and possible alternatives, including the reference to conventional medicine (besides the duty to refer the patient to conventional medicine when CAM is inefficient there is also the duty to inform the patient that conventional medicine is an alternative treatment [24]), the risks involved (many CAM doctors consider their practice to be immune to risk, but that is not the case), the outcome (for instance, clarifying that the therapy cannot cure but simply moderate the symptoms, in order to provide patients with realistic expectations) and the fact that CAM does not count with reliable scientific evidence, even though some anecdotal cases may reveal stories of success.

CAM practitioners may be sued for failing to inform their patients about their conditions and the treatment proposed, in particular, failing to adequately disclose the risks of the therapies they provide. Especially when suffering from severe and incurable medical conditions (cancer, Parkinson), patients are so desperate that they are willing to engage in doubtful treatments without asking for relevant information [23]. However, the CAM doctors are only required to inform about the risks knowable to them in their condition of CAM doctors (that is, not conventional doctors). For instance, if the CAM treatment involves risks that only a conventional doctor could detect the CAM provider should not be held liable for not having disclosed such risks.

## 6. A CAM specific standard of care and patient's protection

Some CAM therapies are supported by scientific evidence, others not so much. This assertion does not mean that such therapies are fraudulent, they may be or not; it just means that for most CAM therapies we don't know if they are save and efficient enough to be regularly used in patients, what are their risks and how they work.

So, if the CAM practitioner is only bound to a standard of care based in his/her area of practice – as sustained in this paper - chances are that this standard of care is based on undemonstrated expertise, leaving the patient unprotected.

In order to have a specific CAM standard of care that is not detrimental for patients some measure need to be implemented.

Such measures involve strict scrutiny of all CAM therapies to be authorized in the jurisdiction. Some CAM practices are based on credible ancient knowledge and have produced attested good results; while others are simply quackery, with a little of pseudoscience. Measure shall be taken in order to avoid the latter to be provided to patients, because if a certain CAM technique or CAM product does not present satisfactory levels of safety it should not be allowed. The method to evaluate CAM might not be exactly the same used for conventional medicine. For instance, randomised controlled trials – one of the most efficient tests for conventional treatments – might have to be substituted or complemented by other methods. Fan [15] suggested observation studies for TCM giving that a trial with a large amount of patients is not adequate for a practice, such as TCM, based on the individual patient and his/her characteristics. The Institute of Medicine [28] suggested observational and cohort studies, case-control studies, studies of bundles of therapies, attribute-treatment interaction analyses.

After the CAM therapy is authorized, strict control regarding each practitioner must be implemented. There should be a licensing process to prevent the exercise of the profession by con artists. Some CAM practices count already with licensing procedures in many jurisdictions (chiropractors, osteopaths), but others not, especially in what regards most recent CAM therapies. Licensing shall be done by a board composed by professionals of that specific CAM practice and eventually

other professionals related to that practice.

Control cannot stop after the licensing, since practitioners must have their activity monitored at all time by health authorities. Professional associations can also be useful for controlling the exercise of the CAM practice, in similar terms to what happens with conventional medical associations, for instance, providing training programs, applying sanctions to their members [29]. Ultimately, control is to be exercised by courts in tort or criminal proceedings.

None of the measure suggested by the paper intends to undermine CAM in favour of conventional medicine. Quite the opposite, the aim is to grant CAM with the same level of regulation and scrutiny established to conventional medicine, as a way to recognize its role as a truth complement and a real alternative to conventional medicine.

## 7. Conclusion

The specific CAM standard of care will ground patients' expectations (showing patients what they can expect from their consulting CAM practitioner), guide the behaviour of CAM doctors (indicating them what is expected from them and how they should behave) and orientate courts' assessment (referring judges to the guideline they should have in consideration when evaluation the conduct of a CAM doctor).

However, CAM standard of care cannot leave the patient unprotected. To properly protect CAM users the solution is not to bind CAM practitioners to the conventional standard of care, but to invest more in controlling CAM therapies and CAM practitioners. CAM's specificity cannot leave the patient unprotected.

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