



## **NUTRITIONAL THERAPISTS: Staying on the right side of the law when working with people diagnosed with cancer**

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**This document has been prepared especially to provide educational information to participants of Nutri-Link post graduate educational programmes.**

Nutritional therapists are given no dispensation by virtue of their qualification when making claims in relation to people who are diseased or suffering any kind of disorder. Some of the most serious prosecutions occur where non-medically qualified 'Complementary and Alternative Medicine' (CAM) practitioners breach either one or both of the following two laws.

### **European Medicinal Law**

Under European medicinal law (Directive 2001/83/EC, amended by Directive 2004/27/EC) it is a breach of law to provide any indication (verbal, written, symbolic, etc) that a product can be used to treat, cure or prevent disease unless it is a fully authorised (licensed) medicinal product.

This is particularly the case with cancer, and regulatory authorities are very quick to pick up any such breaches. Even in the case of licenced medical doctors, such breaches may occur, especially if the recommendation or prescription has made a clear medicinal claim such as curing or treating cancer when the given regimen or treatment has not been approved by The National Institute for Health and Clinical Excellence (NICE). Apart from prosecutions through the General Medical Council (GMC) which can lead to doctors being struck off, claims can be pursued for medical negligence by 'injured parties' through the courts.

Given the risk of negative outcomes even for medical doctors working in fields that are deemed to be within the realm of 'complementary and alternative medicine', nutritional therapists need to be particularly careful and considered in their support of the individual!

### **Cancer Act 1939**

There is also a UK statute, the Cancer Act of 1939, that prevents anyone advertising any type of treatment or cure for cancer. This is the Act for which most prosecutions against advertised 'alternative cancer therapies' have been undertaken in the UK. Most, these days, occur following publication on the Internet. In short, if you make any type of presentation or advertisement about a therapy that purports to treat or cure cancer, you not only fall foul of medicinal law, you also fall foul of the Cancer Act. Beware!

### **What Can You Do?**

As a nutritional therapist, there is no law that can stop you working with a cancer patient. However, it can be relatively easy to fall foul of medicinal law if you give any suggestion that your treatment is occurring in place of other medical treatment or opinion, or that your treatment helps, treats or cures cancer. Remember, you cannot say anything about the way your treatment deals with any disease!



## Here are 8 guidelines to help you stay the right side of the law:

1. First check that your client is being overseen by a medical doctor or oncologist. This way, it means you are not the sole health professional with responsibility for the 'patient'. If he or she is not currently being seen by a medical doctor or oncologist, you should make this recommendation in writing (you need the evidence in case there is a subsequent challenge) as well as verbally (you can explain the situation). Should he or she not wish to see a medical doctor or oncologist, you may wish to refuse any further work with him or her, in order to protect yourself. Or request a letter from the client stating that they have decided not to seek any medical assistance and understand that you are not acting as a replacement or providing treatment for cancer.
2. Try to get the medical doctor or oncologist to agree the support therapies that you propose to provide. Preferably do this by establishing direct dialogue with the medical doctor or oncologist, but otherwise it can sometimes be managed through the patient. Ideally, get the approval from the medical doctor or oncologist in writing.
3. Make sure that all treatments you are engaged in are about supporting particular body systems (e.g. immune, digestive, endocrine, etc.). You should know that if you are using nutritional products, it is acceptable to use them to support body systems on the basis that you are not claiming that the treatment corrects, modifies or restores physiological functions, which would put you firmly back under the auspices of medicinal law. You need to think of your treatment as supporting homeostasis in the body. You can also think of it as promoting health over the 'normal' homeostatic baseline. You just can't claim to bring people from below that baseline back to a point of normality. That would be restoring or correcting health and therefore be in the realms of medicinal treatment!
4. Be very careful about any health claims as even verbal claims are now covered by the EU-wide Nutrition and Health Claims Regulation, which came into force in July 2007. It is however in a transitional phase until 2010, so you can use health claims that have been accepted as legitimate by the Food Standards Agency on the condition that they were used prior to the Regulation coming into force on 1 July 2007. The challenge for practitioners is that a health claim is considered as any claim associated with a food or food product (including food supplements) that implies a health benefit. It can also be delivered in any format, be it oral, written, pictorial, symbolic, etc. It is safest to not make any claims whatsoever.
5. Only engage in treatments that you are qualified to give. For example, if you are a qualified nutritional therapist but not also a trained kinesiologist, don't do kinesiology as an adjunct to your nutrition. The same applies to any other modality.
6. Keep detailed, clear, accurate and legible records about the person (history, condition, client's view, etc.) and your treatments following the principles of good clinical practice.
7. Should there be any deterioration in the condition of your client, make sure that you make appropriate decisions vis-a-vie your own treatment protocols as well as regarding recommendations and referrals.
8. Never stray from your own field of competence (and qualification).