

David Dolan
Susan Miller, MD
U.S. Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

July 24, 2019

RE: Proposed Decision Memo for Acupuncture for Chronic Low Back Pain (CAG-00452N)

Dear Dr. Miller and Mr. Dolan:

On behalf of the American Society of Acupuncturists and our 4500 members nationwide, we applaud efforts by CMS to study the effects of acupuncture for chronic low back pain (cLBP) in populations covered by Medicare. As representatives of the Licensed Acupuncturist (L.Ac.) community and other relevant stakeholders affected by the decisions made based on the outcomes of the planned studies, we seek clarification on certain aspects of the decision memo recently issued. The text of greatest relevance is highlighted below:

Physician assistants, nurse practitioners/clinical nurse specialists (as identified in 1861(aa)(5)), and auxiliary personnel may furnish acupuncture if they meet all applicable state requirements and have:

- *A masters or doctoral level degree in acupuncture or Oriental Medicine from a school accredited by the Accreditation Commission on Acupuncture and Oriental Medicine (ACAOM);*
- *a current certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); and*
- *maintained licensure in a U.S. state or territory to practice acupuncture.*

This language creates a number of problems and is not consistent with existing law in most locales. Specifically, there are no PAs, NPs or clinical nurse specialists who would meet these requirements and not also qualify to be a “Licensed Acupuncturist or state equivalent”. These individuals, if there are indeed any, would most likely hold dual licensure as a PA/NP/CNS and as a Licensed Acupuncturist. Graduation from an ACAOM accredited school and passing of the NCCAOM certification exams defines the core of this specific licensure group, which also obtained a unique Bureau of Labor Statistics (BLS) designation.¹ The language as it stands simply obscures the titling of an already existing, designated licensure group. It seems to attempt to give allowance for participation to providers who would not otherwise qualify for inclusion, unless they were already Licensed Acupuncturists.

The current framing also creates problems for qualified Licensed Acupuncturists who have trained overseas, as well as California based Licensed Acupuncturists, who represent approximately one-third of those in the United States,² and who have passed an equivalent examination: the California

¹ Summary Report for: 29-1199.01 – Acupuncturists. O*Net On-Line. <https://www.onetonline.org/link/summary/29-1199.01>. Accessed July 23, 2018.

² National Certification Commission for Acupuncture and Oriental Medicine. National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) Fact Sheet: Information for California Licensed Acupuncturists and Other Interested Stakeholders about the NCCAOM

Acupuncture Licensing Exam (CALE).³ We propose alternate language for this section *in toto* that simply reads:

- *Licensed Acupuncturists or state equivalents who carry an active and unrestricted license in the state of practice may provide acupuncture.*

This approach would eliminate all confusion and conflicts with state laws, while being more inclusive of the full, qualified licensure group. This bullet could also be simply added to the existing list above, should preservation of that language be desired.

Further, we ask that the term “licensed acupuncturist” be included, where appropriate, in all data collected and reported from these studies. It is important to highlight the professionals providing the service in the studies for clarity and proper reporting of study methods. Future decisions on coverage will be made based on the outcomes of the studies requested by CMS, so those decisions should be based on the actual provisions of care including not only techniques used and number of treatments, but also including the training of the providers of the service.

Auxiliary personnel furnishing acupuncture must be under the direct supervision of a physician, physician assistant, or nurse practitioner/clinical nurse specialist.

While we understand the need for direct supervision by a physician during trial purposes, it is inconsistent with every state law that Licensed Acupuncturists be under the direct supervision of physician assistants, nurse practitioners or clinical nurse specialists. There is no precedent for this, nor does it improve patient safety, excellence in study design or provision, or any other aspect of the process. Licensed Acupuncturists are, in all but a very limited number of incidences, independent providers nationally, and have an outstanding safety profile⁴. In Hawaii, for example, only Licensed Acupuncturists (not even medical doctors) can provide acupuncture. In cases where they were or remain under supervision, only medical doctors have been in that supervisory position. We ask that this portion be revised to be consistent with state laws, and remove the terms “physician assistant” and “nurse practitioner/clinical nurse specialist”.

Thank you for the opportunity to comment and your consideration. We are delighted to see CMS doing such diligent work to study acupuncture for pain, as it stands as one of the most promising options for non-pharmacological treatment.

Sincerely,

The Board of the American Society of Acupuncturists

³ Fan AY, Stumpf SH, Faggert Alemi S, Matecki A. Distribution of licensed acupuncturists and educational institutions in the United States at the start of 2018. *Complementary Therapies in Medicine*. 2018;Dec(41):295-301. [doi:10.1016/j.ctim.2018.10.015](https://doi.org/10.1016/j.ctim.2018.10.015)

⁴ Chan MWC, Wu XY, Wu JCY, Wong SYS, Chung VCH. Safety of Acupuncture: Overview of Systematic Reviews. *Sci Rep*. 2017;7(1):3369. Published 2017 Jun 13. [doi:10.1038/s41598-017-03272-0](https://doi.org/10.1038/s41598-017-03272-0)