

Protocol Title: ASA Medicare Survey  
Protocol Faculty Sponsor: Jennifer Anne Stone  
Protocol Number: 2006296056  
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## **Medicare Recognition's Effect on the Acupuncture Profession: ADDITIONAL INFORMATION July 1, 2020**

The ASA & NCCAOM would like to share additional information regarding how Medicare recognition would affect the acupuncture profession. We hope to provide some clarity as there were a few statements from our June 24, 2020 ASA & NCCAOM Town Hall that led to confusion.

### **WHY ACUPUNCTURISTS OPT-OUT CANNOT BE COMPARED TO CHIROPRACTORS & PHYSICAL THERAPISTS (PTs)**

A statement was made that chiropractors and PTs have not been able to get opt-out and therefore, using them as historical guidance would indicate that the chances are low to impossible for acupuncturists.

This information is not entirely true. Chiropractors and PTs have followed very different paths than what acupuncturists plan to do, if we pursue Medicare inclusion.

1. Chiropractors became part of Medicare in 1972, but at that time no opt-out was available. Opt-out was not made available until 1998.
2. When chiropractors entered Medicare, they were explicitly limited to three services related to spinal manipulation based on the available evidence at that time. Therefore, they were not acknowledged as a profession, they were acknowledged for services.

Acupuncturists, if pursuing Medicare, are requesting inclusion at a time when opt-out is already accepted for practitioners. Additionally, we are asking for recognition as a profession, not for services.

Medicare opt-out is not decided or approved by one group. There is no group that any profession needs to appease in order to "be approved".

1. There is no one specifically blocking chiropractors or PTs from obtaining the ability to opt out. Both groups' advocacy efforts regarding Medicare are different and it is important to realize chiropractors and PTs are not one group who were "denied" (or that one group in Congress is against them and/or us).
2. A member of Congress will not vote down a bill because it allows a practitioner the ability to opt out. Part of seeking Medicare recognition as a Medicare defined practitioner (through the legislative angle acupuncturists would be taking, if we pursue Medicare inclusion) is that

practitioner recognition allows the ability to opt out. Opposition to a bill would really come down to cost of the service and scope concerns, not because of having opt-out in the bill. Physicians are not actively lobbying against acupuncturists. They have no reason to. They used to lobby against chiropractors, that is one of the biggest reasons chiropractors have had so much trouble.

- A. Chiropractors, as mentioned, were written into Medicare under very restrictive terms in the 70s that they have had to tackle piece by piece over the years by showing an evidence base and working on their image (by showing that the medicine they provide is legitimate).
- Chiropractors have an uphill battle because they are associated with doing more harm than good on people.
  - Regardless of the evidence around more harm than good, that's a tough stereotype to battle back from – and they just aren't considered mainstream enough for policymakers to fight for them (largely because the AMA for many years fought against them and Congress pays attention to the AMA). Acupuncturists do not have this problem with the AMA.
  - Currently, the chiropractors ultimate priority for Medicare is to expand their service scope. In doing that, their recent bills are not asking what acupuncturists will be asking for – Medicare recognition. Chiropractors already have recognition as providers, but not as practitioners. They are asking Medicare to recognize more of their services. Our bill would seek recognition as practitioners for the services licensed acupuncturists are already authorized to provide.
  - In their latest legislative effort, chiropractors have intentionally chosen not to ask for the ability to opt-out because they want to focus on expanding their services under Medicare. This is a strategic move because they are trying to not speak out of both sides of their mouths by requesting that Medicare cover more of their services while also requesting that chiropractors be able to leave Medicare.
- B. Currently, Physical Therapists can provide services to beneficiaries under the direction of a physician. This is a standard practice model and right now, PTs do not fit Medicare's definition of a practitioner, so they do not have the same rights per se as practitioners, which would be to opt-out. PTs are considered providers not practitioners, therefore they can choose not to enroll in Medicare and with proper documentation, can take cash from Medicare beneficiaries. PTs appear to be perfectly fine with this arrangement as there has not been any active efforts to establish themselves as practitioners, and subsequently, be able to opt-out.

Given these facts, acupuncturists cannot compare their path to Medicare recognition to that of the chiropractors or PTs. All three professions have and will approach Medicare from and with different circumstances and needs.

Acupuncturists will be able to request practitioner designation and thus, the ability to opt-out. If the bill is approved, which again will not be a question of whether or not we include opt-out but rather whether Congress has concerns with the cost of bringing our profession into the fold and our scope.

Therefore, the acupuncturists' best course of action, should they pursue Medicare inclusion and get it, is to develop a strong evidence base for acupuncture. The goal is to have as many acupuncturists take advantage of Medicare's current cLBP coverage to show Medicare how much of a difference

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acupuncture makes for their patients with cLBP. That alone will speak very loudly on Capitol Hill. If acupuncturists can show that in just “X” months since the coverage decision, “Y” beneficiaries reported improvement without medication, saving Medicare “Z” dollars, our profession will be very well set up for official practitioner recognition.

#### **WHY REIMBURSEMENT RATES ARE NOT ABSOLUTE**

Reimbursement will initially be different depending upon region, state, city based upon RVU’s. However, acupuncturists need to be in the Medicare system to be in the position to negotiate different rates. Rates will not change without acupuncturists in the system who will advocate for that specific change because other professions who practice acupuncture are not as invested in changing those numbers. Therefore, the numbers shared in the June 24th Town Hall cannot be viewed as absolutes.

#### **MEDICARE IS GROWING**

By 2030, Medicare Part B will cover 80 million (up from 50 million currently) by 2030. Medicare spending growth is projected to average 7.4 percent over 2018-2027, the fastest rate among the major payers. Underlying the strong average annual Medicare spending growth are projected sustained strong enrollment growth as the baby-boomers continue to age into the program and growth in the use and intensity of covered services that is consistent with the rates observed during Medicare’s long-term history.

Additional information on how Medicare plans to change/grow:

<https://www.cms.gov/newsroom/press-releases/cms-announces-new-streamlined-user-experience-medicare-beneficiaries>