

*Information Summary and Recommendations*

# Acupuncture Scope of Practice Sunrise Review

December 2009



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## THE SUNRISE REVIEW PROCESS

A sunrise review is an evaluation of a proposal to change the laws regulating health professions in Washington. The legislature's intent, as stated in Chapter 18.120 RCW, is to permit all qualified people to provide health services unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Changes to the scope of practice should benefit the public.

The Sunrise Act, RCW 18.120.010, says a health care profession should be regulated or scope of practice expanded only when:

- Unregulated practice can clearly harm or endanger the health, safety or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- The public cannot be effectively protected by other means in a more cost-beneficial manner.

If the legislature identifies a need and finds it necessary to regulate a health profession not previously regulated, it should select the least restrictive alternative method of regulation, consistent with the public interest. Five types of regulation may be considered as set forth in RCW 18.120.010(3):

1. *Stricter civil actions and criminal prosecutions.* To be used when existing common law, statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm.
2. *Inspection requirements.* A process enabling an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business, when a service being performed for people involves a hazard to the public health, safety or welfare.
3. *Registration.* A process by which the state maintains an official roster of names and addresses of the practitioners in a given profession. The roster contains the location, nature and operation of the health care activity practices and, if required, a description of the service provided. A registered person is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
4. *Certification.* A voluntary process by which the state grants recognition to a person who has met certain qualifications. Non-certified people may perform the same tasks, but may not use "certified" in the title. A certified person is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
5. *Licensure.* A method of regulation by which the state grants permission to engage in a health care profession only to people who meet predetermined qualifications. Licensure protects the scope of practice and the title. A licensed person is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.

## **EXECUTIVE SUMMARY**

### **Proposal**

Acupuncturists are regulated under Chapter 18.06 RCW. The scope of practice has not been updated for 24 years. The Washington Acupuncture and Oriental Medicine Association (WAOMA) (applicant) seeks to make additions to the current scope of practice and to change the title of the profession from acupuncturist to Asian Medicine Practitioner.

The proposal would add several treatment methods and make changes to others. Specifically, Asian Medicine Practitioners would be allowed to:

- Use lancets, in addition to acupuncture needles, to directly and indirectly stimulate acupuncture points and meridians.
- Give dietary advice as a stand-alone treatment no longer in conjunction with the current allowed techniques.
- Teach breathing, relaxation and exercise techniques.
- Use qi gong, a Chinese meditative and exercise system.
- Offer health education.
- Conduct and analyze in-office testing of temperature, blood pressure, auscultation (listening to the body's internal sounds), weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment.
- Perform massage and tui na, a Chinese form of manipulative therapy.
- Use heat and cold therapies.
- Recommend and dispense herbs, vitamins, minerals, and dietary and nutritional supplements.

Many states include different parts of the proposed treatments in their scopes of practice (Appendix A – pages 26-32).

### **Recommendation**

The Department of Health (department) recommends adoption of the proposed scope of practice changes, in whole or part; with the exception of medical testing. The department does not take a position on the name change except to recognize procedural and fiscal effects to existing systems.

## **SUMMARY OF INFORMATION**

### **Background and Proposal for Sunrise Review**

The scope of practice for acupuncturists has not changed in 24 years. Current law does not allow practitioners to fully use their training and does not reflect all the treatment methods involved in acupuncture. Acupuncture is a system of medicine that promotes wellness and that helps prevent, diagnose, and treat diseases.

On May 7, 2009, Senator Karen Keiser asked the Department of Health to conduct a Sunrise Review pertaining to the title and scope of practice for acupuncture. The proposal adds several treatment methods to the acupuncturist scope of practice and proposes a title change to Asian Medicine Practitioner.

### **Current Regulation and Practice**

RCW 18.06.010 defines the scope of practice of acupuncture as “a health care service based on an Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote health and treat organic or functional disorders by treating specific acupuncture points or meridians.” Acupuncture currently includes the following techniques:

- Use of acupuncture needles to stimulate acupuncture points and meridians;
- Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;
- Moxibustion, a Chinese herbal therapy;
- Acupressure;
- Cupping;
- Dermal friction technique;
- Infra-red;
- Sonopuncture;
- Laserpuncture;
- Point injection therapy (aquapuncture); and
- Dietary advice based on Oriental medical theory provided in conjunction with techniques under (a) through (j) of this subsection.

### **Public Participation and Hearing**

The department received the sunrise application from the proponents in mid-June 2009 (Appendix A) and follow up information in July (Appendix C). We shared the application with interested parties and began accepting comments on the proposal June 30, 2009.

There was general support from 53 individual acupuncturists, the Advocates for the Advancement of Asian Medicine, one medical doctor, and 23 patients or other members of the public. They agree that acupuncture is a complete and intact medical system, and that the

current scope of practice does not reflect all the treatment methods acupuncturists are trained to use. Five of the acupuncturists who supported the proposal had objections to the change in title and/or in-office testing.

Two acupuncturists, six other health care providers, two patients or other members of the public, and five professional associations wrote in opposed to all or part of the proposal. Most of the concerns centered around gaining clarity on the additional treatment methods, the in-office testing, and the title.

Bastyr University and the Seattle Institute of Oriental Medicine wrote in with concerns about some of the procedures and wanted to make sure the education provided to acupuncture students matches the scope of practice (See Appendix E for detailed summary of written comments).

In addition, we received objections from pharmacists over the term “dispense.”

We held a public hearing July 30, 2009 in Tumwater, Washington, and invited the public to present testimony. Seventeen of the eighteen people in attendance testified in support of the proposal. A representative from the Washington State Medical Association testified in opposition with many concerns (See Appendix D for hearing summary).

In addition, we offered a 10-day written comment period following the public hearing, and another period for rebuttals following release of the draft report.

## **REVIEW OF PROPOSAL USING SUNRISE CRITERIA**

The Sunrise Act RCW 18.120.010(2) states that the scope of a profession’s practice should be expanded only when:

- Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;
- The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and
- The public cannot be effectively protected by other means in a more cost-beneficial manner.

### **First criterion: Unregulated practice can harm or endanger health or safety.**

This criterion does not apply to the proposal.

Acupuncture is currently a thoroughly regulated profession. The applicant’s proposal would clarify the existing scope of practice and/or expand the practice into areas now primarily reserved for other regulated practitioners. No potential for unregulated practice is identified.

### **Second Criterion: Public needs will benefit from assurance of professional ability.**

The proposed legislation does not satisfy this criterion for medical testing.

There is no challenge to the professionalism of acupuncturists or to the quality of care they provide their patients. There are adequate laws and rules in place to assure the public of acupuncturists' initial and continued professional ability. However, the proposed legislation does not contain similar assurances. There is no mechanism for assuring the competency of acupuncturists performing medical testing included in the proposal. The public could not be assured that an acupuncturist performing medical testing is qualified to administer, read or evaluate the tests.

**Third criterion: Public protection cannot be met by other means.**

The proposed legislation partially satisfies this criterion.

Public protection is already in place with the current scope of acupuncture practice. Clarifying the existing scope could aid the public in making important health care choices. However, the medical testing embodied in the proposed expansion is already authorized to be provided by other professions. The public is not being denied necessary services by excluding this portion of the applicant's proposal and is adequately protected by other means.

## DETAILED RECOMMENDATIONS TO THE LEGISLATURE

The department recommends that the proposed language be adopted in part, amended and adopted in part, and rejected in part.

### **1. The department takes no position to the applicant's proposal in Sec 1.4(1) to change the title of acupuncturist to Asian Medicine Practitioner.**

The applicant has proposed to change the title of the profession and the definition of the profession in Sec 1.4(1) and elsewhere.

The department is neutral to the applicant's proposal regarding the name change. If the proposal is accepted, the department believes it should be amended as follows:

“Asian medicine” means a health care service using Asian medicine diagnosis and treatment to promote health and to treat organic or functional disorders, and includes the following...

*Rationale:* The applicant's concern is that patients are unaware of all the other treatment methods that are not only traditional in their area of medicine, but also in their training and education.

Acupuncturists trained and tested in Washington do, in fact, learn a variety of techniques, including but not limited to: traditional Chinese medicine; diagnostic skills; patient assessment techniques; tui na; Chinese herbs; tai chi; qi gong; and electroacupuncture.

The department does not believe there would be any significant risk to the public in confusion or a blurring of the lines between this system of medicine and Western medicine. However, a change in title would require some cost to the department in updating the licensing system, Web pages and other forms of communications.

Testimony at the hearing revealed that acupuncturists and insurance companies would likely incur similar costs, which may be passed on to the public.

The applicant's concern that patients are unaware of all the other treatment methods could seemingly be cured with a marketing campaign. Any marketing campaign should put the potential costs on the providers and not on the public. Further, it is of note that the applicant's membership represents a small number, about a fifth, of practicing acupuncturists in Washington.

The dean of the School of Acupuncture and Oriental Medicine at Bastyr University said acupuncturist is currently the accepted title, noting that it is in use by: 43 states and the District of Columbia; 43 state professional organizations; 60 accredited or candidate schools of acupuncture and Oriental medicine; insurance companies; the general public; U.S. media; the American Association for Acupuncture and Oriental Medicine; the National Commission for the Certification of Acupuncture and Oriental



Medicine (NCCAOM); and the Accreditation Commission for Acupuncture and Oriental Medicine.

**2. Applicant's proposal in Sec 1.4(1)(a) to amend the definition of acupuncture to specifically include the use of lancets in addition to acupuncture needles should be accepted.**

The applicant has also proposed to add the use of lancets to the definition of acupuncture in Sec 1.4(1)(a).

*Rationale:* The use of lancets for bleeding in order to release heat is a standard and currently acceptable practice in acupuncture. The amendment to the definition is a matter of clarification. The use of lancets may need to be further defined or limited in statute or rule to include only this traditional use.

**3. The applicant's proposal in Sec 1.4(1)(k) to give dietary advice as a stand-alone treatment and not only in conjunction with currently allowed techniques should be accepted with the following changes.**

The applicant's proposal in Section 1.4(1)(k) to remove the requirement that dietary advice only be provided in conjunction with other allowed treatments should be accepted.

While not the same as dietary information, the applicant has also sought to add two new practices to their scope that are similar to dietary advice.

First, the applicant has proposed to add health education to the scope of practice in Sec 1.4(1)(n). The applicant defines health education as educational information directed to the patient that attempts to improve, maintain, promote, and safeguard the health and health care of the patient.

Second, the applicant has proposed to add recommending and dispensing herbs, vitamins, minerals and dietary and nutritional supplements in Sec 1.4(1)(r). The applicant clarifies that this recommendation is based on the practitioner's diagnosis of the patient.

The department believes the applicant's proposal for Sec 1.4(1)(k) should be accepted and joined with the proposal for Sec 1.4(1)(n) and (r) to read as follows:

Dietary advice and health education based on Asian medical theory, including the recommendation and sale of herbs, vitamins, minerals and dietary and nutritional supplements;

*Rationale:* The ability to share dietary advice allows the acupuncturist to provide preventative and healthy life choices to patients. Acupuncturists are already trained and currently offer the practice of dietary advice.

Accredited acupuncture schools in Washington offer education in food therapy and nutrition,<sup>1</sup> and many continuing education courses are offered on recommending herbs, vitamins, minerals and dietary and nutritional supplements (See Appendix F). The NCCAOM Foundations of Oriental Medicine Module tests for the basic oriental medicine dietary and nutritional principles.<sup>2</sup> The public will benefit from dietary advice that aids in preventative and therapeutic treatment. Along similar lines, health education based on Asian or Oriental medical theory would benefit the public.

Of note, the NCCAOM Acupuncture with Point Location Module tests for treating patients with nutritional supplements.<sup>3</sup>

The department received many comments expressing concern over the applicant's use of the word "dispensing" in Sec 1.4(1)(r). RCW 69.41.010 defines "dispense" as "the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery." This definition is very specific and limited to certain professions. The applicant appears to appreciate this concern. In its Response to Public Comments and Department of Health Public Hearing Panel Questions, it noted its intention to amend the word "dispensing" to "selling". Acupuncturists will still be required to comply with RCW 19.68, which prohibits rebating by practitioners of healing professions.

#### **4. The applicant's proposal in Sec 1.4(1)(l) to use breathing, relaxation, and exercise techniques should be accepted.**

The applicant has proposed to add breathing, relaxation, and exercise techniques to the scope of practice in Sec 1.4(1)(l). It defines these techniques as: breathing; visualization and movement therapy wherein the practitioner directs the patient in the use of these techniques to improve and maintain health and achieve physical and mental relaxation and strengthening.

The applicant has also proposed to add qi gong to the scope of practice in Sec 1.4(1)(m). They define qi gong as a form of Chinese exercise stimulation therapy that includes techniques of breathing, visualization, and (often) movement. It is based on the theories of Asian medicine yin-yang, the five elements, and a meridian view of the body. Qi gong can be divided into external qi gong, in which the practitioner encourages and directs the free flow of qi for the patient, and internal qi gong, wherein a practitioner teaches the techniques to the patient for use by the patient at home.

The department believes the applicant's proposal for Sec 1.4(1)(l) should be accepted and amended with the proposal for Sec 1.4(1)(m) as follows:

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<sup>1</sup> Bastyr University Acupuncture Program-<http://www.bastyr.edu/education/acupuncture/degree/curriculum.asp>.  
Seattle Institute of Oriental Medicine-<http://www.siom.edu/catalog/program/curr>.

<sup>2</sup> [http://nccaom.org/exams/pdfdocs/FOMM\\_Content.pdf](http://nccaom.org/exams/pdfdocs/FOMM_Content.pdf).

<sup>3</sup> [http://nccaom.org/exams/pdfdocs/APLA\\_Content.pdf](http://nccaom.org/exams/pdfdocs/APLA_Content.pdf).

Breathing, relaxation and exercise techniques, including qi gong;

*Rationale:* These techniques are taught in Washington accredited schools.<sup>4</sup> The NCCAOM Foundations of Oriental Medicine Module tests for basic stretching, movement and exercise principles and techniques, as well as qi gong.<sup>5</sup> The public could benefit from these treatments.

5. **The applicant's proposal in Sec 1.4(1)(m) regarding qi gong should be accepted in accordance with paragraph 4 of this section.**
6. **The applicant's proposal in Sec 1.4(1)(n) to provide health education should be accepted in accordance with paragraph 3 of this section.**
7. **The applicant's proposal in Sec 1.4(1)(o) to conduct in-office testing of: temperature, blood pressure, auscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment should be rejected.**

The applicant has proposed to add in-office testing to the scope of practice in Sec 1.4(1)(o). The applicant specifies that these tests are for pregnancy, ovulation, urine dipstick analysis, fecal occult blood, cholesterol, homocysteine, blood glucose, HbA1C, pH, etc., by CLIA-waived point of care testing.

The department believes the applicant's proposal to add in-office testing to their scope of practice should be denied.

*Note:* The taking of temperature, blood pressure, auscultation, weight, and body fat percentage are currently acceptable practices for acupuncturists and should continue to be allowed. The department has concerns only about the expansion into the testing of urine, saliva, stool, and blood.

*Rationale:* The public already has access to these tests. The proven benefit has not been ascertained, and the potential for harm is present. The current environment allows a patient to know where to seek these tests, and to obtain a diagnosis.

Allowing acupuncturists to perform, interpret and diagnose from these tests could have a potential harm to patients. There is the potential for misdiagnosis of potentially life-threatening conditions, such as ectopic pregnancy, which often tests negative in simple urine tests. These tests and others, such as blood glucose, cholesterol, homocysteine, etc., require an advanced level of interpretation that acupuncturists are not trained to provide (see Appendix E, page 84, Bastyr University comments).

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<sup>4</sup> Bastyr University Acupuncture Program-<http://www.bastyr.edu/education/acupuncture/degree/curriculum.asp>.  
Seattle Institute of Oriental Medicine-<http://www.siom.edu/catalog/program/curr>.

<sup>5</sup> [http://nccaom.org/exams/pdfdocs/FOMM\\_Content.pdf](http://nccaom.org/exams/pdfdocs/FOMM_Content.pdf).

In many instances, the test and resulting diagnosis would lead to referral to another health professional, such as a primary care practitioner. It is extremely probable the subsequent provider would re-perform the same test in order to guarantee accuracy and to avoid liability for an erroneous diagnosis. Patients might be billed numerous times from various providers, and could also receive multiple conflicting diagnoses. Further, there is the potential for denial of coverage by insurance companies for duplicate tests, adding to patient costs.

The applicant claims that acupuncturists are adequately trained and tested to perform these tests. However, there is no evidence to support this claim. The department is unable to establish that acupuncturists receive any training on how to administer or interpret these tests. Further, current Washington state law does not require an acupuncturist to take the NCCAOM Biomedicine Module, the module most appropriate for assuring public safety for these tests.<sup>6</sup>

The applicant admits it would require a professional development class prior to getting a required Medical Test Site license. However, no class is currently available on this topic.

A scan of other state laws on acupuncture shows that only two states, Arkansas and New Mexico, include Western diagnostic testing in their scope of practice. Both states license acupuncturists as Doctors of Oriental Medicine.<sup>7</sup>

The department finds inherent conflict in adding modern western medical testing to a system of ancient eastern medicine. This directly contradicts the stated intent of the draft bill, which is recognizing the system of medicine...drawing upon the experience, learning, and traditions originating in East Asia.

**8. The applicant's proposal in Sec 1.4(1)(p) to use massage and tui na should be accepted with the following changes.**

The applicant has proposed to add massage and tui na to the scope of practice in Sec 1.4(1)(p).

The applicant defines massage as the manipulation of the soft tissues of the body for the purpose of normalizing those tissues and consists of manual techniques that include applying fixed or movable pressure, holding, and/or causing movement of or to the body. During the public hearing on July 30, 2009, the applicant noted the bill would be amended to read "Asian massage" instead of "massage." The applicant has verbally indicated agreement from the massage profession although the department has received no written confirmation of this from any party.

The applicant defines tui na as a therapeutic form of manual therapy bodywork that originated in China. The application of various tui na techniques is based on the

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<sup>6</sup> <http://www.doh.wa.gov/hsqa/professions/Acupuncture/licensure.htm>.

<sup>7</sup> See page 25 – Attachment D of applicant report for Arkansas scope and page 29 for New Mexico. In addition, department staff scanned the scopes of practice for the states not provided in the applicant report.

theories of Chinese medicine yin-yang, the five elements, and a meridian view of the body. The goal is to encourage free flow of qi. Tui na can be used to treat acute conditions as well as for constitutional disharmonies. Tui na techniques include, but are not limited to, massage, acupoint stimulation, and forceful maneuvers including pushing, rolling, kneading, rubbing, and grasping of bones, viscera, and soft tissue.

The department believes the applicant's proposal for Sec 1.4(1)(p) should be accepted and amended as follows:

Asian massage and tui na;

*Rationale:* These techniques are taught in Washington accredited schools.<sup>8</sup> The NCCAOM Foundations of Oriental Medicine Module tests for the treatment of patients using bodywork techniques specified as acupressure, shiatsu, and tui na.<sup>9</sup> The public could benefit from these treatments. In addition, acupressure, a form of Asian massage, is currently within the scope of practice for acupuncturists.

**9. The applicant's proposal in Sec 1.4(1)(q) to use heat and cold therapies should be accepted.**

The applicant has proposed to add heat and cold therapies to the scope of practice in Sec 1.4(1)(q). The applicant defines this use as the direct and indirect application of heat and cold to the body.

*Rationale:* These techniques are taught in Washington accredited schools.<sup>10</sup> The NCCAOM Acupuncture with Point Location Module tests for the application of heat and cold therapies in a variety of manners: heating lamps; hydrocollator packs; microwave heat pads; chemical heat pads; herbal heating pads; spray and stretch vapor coolant; ice packs; hot compresses; cold compresses; and other methods.<sup>11</sup> The public could benefit from these treatments.

**10. The applicant's proposal in sec 1.4(1)(r) to recommend and dispense herbs, vitamins, minerals, and dietary and nutritional supplements should be accepted in accordance with paragraph 3 of this section.**

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<sup>8</sup> Bastyr University Acupuncture Program- <http://www.bastyr.edu/education/acupuncture/degree/curriculum.asp>.  
Seattle Institute of Oriental Medicine-<http://www.siom.edu/catalog/program/curr>.

<sup>9</sup> [http://nccaom.org/exams/pdfdocs/FOMM\\_Content.pdf](http://nccaom.org/exams/pdfdocs/FOMM_Content.pdf).

<sup>10</sup> Bastyr University Acupuncture Program- <http://www.bastyr.edu/education/acupuncture/degree/curriculum.asp>.  
Seattle Institute of Oriental Medicine-<http://www.siom.edu/catalog/program/curr>.

<sup>11</sup> [http://nccaom.org/exams/pdfdocs/APLA\\_Content.pdf](http://nccaom.org/exams/pdfdocs/APLA_Content.pdf)

## **REBUTTALS TO DRAFT RECOMMENDATIONS**

The department shared draft recommendations with all interested parties before finalizing the report. The main concerns received and department responses follow:

### **Neutral Position on Title Change**

The applicant and a few interested parties requested the department change its position to support, because: the term “acupuncturist” can still be used under the proposal; a proposed change would have passed the legislature last session if the word “Oriental” had not been used; and Asian medicine closely aligns with the trends in academia and standards of practice. In addition, the applicant thinks we failed to account for the level of participation it received from colleagues who are not actual members of WAOMA. It pointed out that it had solicited input from hundreds of stakeholders who were supportive of this change.

Bastyr University has concerns with the term “Asian,” stating it still has racial connotations, and includes the Indian subcontinent, Siberia, Central Asia, China, and Indo-China. The indigenous medicines of these Asian areas are not included in acupuncturists’ training or practice in Washington state. It provides the option of “Eastern Medicine” because it believes it does not have racial or geographical associations and consumers would be able to differentiate between “Eastern” and “Western” medicine.

### **Department Response**

The department remains neutral to the proposed change in title. The Sunrise Review statutes allow us to comment on initial license and expansion of the scope of practice. The title of a profession is not directly related to any of the sunrise criteria, unless there are concerns about public confidence or safety.

There appear be multiple options for dealing with the applicant’s belief that patients are unaware of all the treatment methods used by acupuncturists. There does not seem to be significant risk to the public. There would be some costs to the department, providers, and insurance carriers. As Bastyr points out, “Asian” medicine may be too broad, and there are other title options to be considered.

The department clarified the statement about the applicant representing a small number of acupuncturists to show the department was referring to the number its membership represents.

### **Department Rejection of In-Office Testing**

The department received the following concerns from the applicant and one acupuncturist about its rationale for rejecting this section of the proposal: a diagnosis resulting in referrals to other health care providers would provide leverage to encourage patients to see western practitioners when needed; there is a proven benefit in cases where an acupuncturist has suspected problems that have been confirmed by western practitioners; these tests would increase, not decrease, patient safety; these tests would decrease costs because most acupuncture patients pay out-of-pocket and these tests are cheaper than lab tests; restricting access to these tests forces patients to seek them elsewhere; and the fact that Washington schools are not teaching this subject should

not be a factor in this issue. The acupuncturist added that relying on the fact that the public already has access to these tests is akin to a sanctioned monopoly.

Bastyr University and one acupuncturist were concerned that the tests for height, weight, blood pressure, and auscultation were included in the in-office testing proposal because they are unrestricted procedures that acupuncturists can already perform.

### **Department Response**

The department added to our recommendations that testing of temperature, weight, blood pressure, auscultation and body fat percentage are already part of acupuncture practice and should be retained. In addition, we made a clarification and elaborated on the potential for harm, as this is a key part of the review. We did not make any other changes because we believe the benefits of this section do not outweigh the risks.

### **Additional Issue**

The Advocates for the Advancement of Asian Medicine asked the department to consider a request they had made during the public comment period that had not been addressed. They had requested the department make a change to the law regarding doctor referral (RCW 18.06.140(2)) that appeared to eliminate the requirement that acupuncturists refer patients with potentially serious conditions to other health care providers and instead call 911.

### **Department Response**

The department did not consider this proposed change because it is a separate issue outside the scope of the proposed bill the legislature requested the department to review.

# Appendices



## Appendix A: Proposal

### Applicant Report Cover Sheet and Outline Washington State Department of Health Sunrise Review

#### COVER SHEET

- **Legislative proposal being reviewed under the sunrise process (include bill number if available):**

S-3257.2/09 2nd draft

- **Name and title of profession the applicant seeks to credential/institute change in scope of practice:**

Chapter 18.06 RCW - Acupuncture

- **Applicant's organization:** Washington Acupuncture and Oriental Medicine Association (WAOMA)

**Contact person:** Leslie Emerick

**Address:**

**Telephone number:**

- **Number of members in the organization:** 223

**Approximate number of individuals practicing in Washington:** 1200

**Name(s) and address(es) of national organization(s) with which the state organization is affiliated:**

American Association of Acupuncture and Oriental Medicine (AAAOM)  
PO Box 162340  
Sacramento, CA 95816

916-443-4770  
916-443-4766 Fax  
866-455-7999 Toll-Free

- **Name(s) of other state organizations representing the profession:**

Washington Acupuncture and Oriental Medicine Association (WAOMA): 223 members  
Advocates for the Advancement of Asian Medicine (AAAM): Unknown number of members  
South Sound Acupuncture Association: 29 members  
Southwest Washington Acupuncture Group: 26 members

## Outline of Factors to be Addressed

### **Supporting Documentation Attachments:**

Attachment A: Draft bill language (herein referred to as S-3257.2/09 2nd draft).

Attachment B: Definitions of Proposed Techniques.

Attachment C: Good Laboratory Practices and Waived Test Systems.

Attachment D: Scope and Techniques from Other States.

Attachment E: Professional Code of Ethics.

### **(1) Define the problem and why regulation is necessary:**

#### **(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety.**

Acupuncturists are regulated by the State of Washington under RCW 18.06 and provide an important role in health care in Washington state. The current scope of practice has not been updated for 24 years and does not reflect current standards of practice, advances in science and technology nor education of the profession.

#### **(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession.**

Consumers will benefit from the updated standards now being proposed as these standards will allow the practitioner to offer a broader range of treatment services within the current regulating guidelines for licensed acupuncturists. The public will be assured of the same protections they have now. The proposed standards include the addition of seven (7) modalities that will enhance public health. These modalities are: breathing, relaxation, and exercise techniques; qi gong, health education; in-office testing of temperature, blood pressure, oscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment; massage and tui na; heat and cold therapies; and recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements. See Attachment B for definitions of proposed techniques.

The proposed standards clarify current requirements as defined in WAC 246-802-110 (Referral to other health care practitioners) by allowing licensed acupuncturists to screen for those conditions listed in WAC 246-802-110 (1) through (8) and make referrals to other health care practitioners as defined in (8)(a) and (8)(b), as well as assist in treatment.

Currently licensed acupuncturists are known mainly for the practice of acupuncture even though they practice many other modalities, this is confusing to the public. The proposed change in title of RCW 18.06 from acupuncturist to Asian medicine practitioner, and the definition of Asian medicine as a system of medicine, will clarify for the public that the treatments they receive under RCW 18.06 is within a system of medicine and not just one procedure ("acupuncture").

#### **(c) The extent of autonomy a practitioner has, as indicated by: (i) The extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment; and (ii) The extent to which practitioners are supervised:**

Proposed updates to the scope of practice will benefit the public by assuring the public that licensed acupuncturists remain licensed and held accountable to professional standards under current laws that regulate health care providers.

**(2) The efforts made to address the problem: (a) Voluntary efforts, if any, by members of the health profession to: (i) Establish a code of ethics; or (ii) Help resolve disputes between health practitioners and consumers; and (b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem:**

Licensed acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession. The proposed changes to scope of practice would strengthen current law under RCW 18.06.010 (1)(a) through (k) by further defining techniques (l) through (r), and requirements as defined in WAC 246-802-110. Current law is lacking the techniques to allow licensed acupuncturists to comply with these rules. Currently the statute does not reflect the growth of the profession or allow for practitioners to fully utilize their training for the health and enrichment of the public.

There are no proposed changes to current law that would affect the current code of ethics of the profession nor changes to RCW 18.130 (Regulation of health professions — uniform disciplinary act).

**(3) The alternatives considered: (a) Voluntary efforts, if any, by members of the health profession to: (i) Establish a code of ethics; or (ii) Help resolve disputes between health practitioners and consumers; and (b) Recourse to and the extent of use of applicable law and whether it could be strengthened to control the problem.**

Updating RCW 18.06 with the proposed standards as proposed in S-3257.2/09 2nd draft (Attachment A) would serve the public interest by allowing licensed acupuncturists to perform techniques that will provide improved patient care and treatment resulting in improved public health. There are no provisions in the proposed standards for services to be performed by anyone other than individuals licensed in RCW 18.06.

**(4) The benefit to the public if regulation is granted.** Consumers will benefit from the updated standards now being proposed as these standards will allow the practitioner to offer a broader range of treatment services within the current regulating guidelines for licensed acupuncturists. The public will be assured of the same protections they have now and that they have come to trust and expect. Currently the statute does not reflect the growth of the profession or allow for practitioners to fully utilize their training for the health and enrichment of the public.

The proposed change in title of RCW 18.06 from acupuncturist to Asian medicine practitioner, and the definition of Asian medicine as a system of medicine, will clarify for the public that the treatments they receive under RCW 18.06 is within a system of medicine and not just one procedure (“acupuncture”).

The increase in scope of RCW 18.06 will result in improved public health as health care treatment, screening, and health education can be done for less cost by licensed acupuncturists. Health care services in Washington state are costly to the state, insurers, and consumers and most often do not provide the patient with the holistic treatments that the patient will receive from a licensed acupuncturist. Licensed acupuncturists are experts in preventative medicine, nutrition, and health education, three areas well known for being the key to lowering rising health care costs due to treatable chronic and acute conditions.

Licensed acupuncturists play an important role in the choice for basic health care, treatment and prevention. With the rising costs of health care, the growing dependence on drug therapy, and the ever-increasing need for health education, Licensed acupuncturists are on the forefront of providing health education, disease prevention, the utilizing of drug free methods, and cost effective care.

The ability to perform in-office testing will serve as a further benefit for the public by providing verification of progress of treatment plans, and in-office testing results will allow the licensed acupuncturist to make an informed decision on the need for a referral to a primary care practitioner or other allied health professional, thereby complying with WAC 246-802-110.

The addition to the standards to include the recommendation and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements clarifies language in current statute to allow licensed acupuncturists to fully utilize their education in dietary therapy for the benefit to patient health.

(4)(a) The extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation. High standards of training, licensing, and professional conduct for licensed acupuncturists exists in Washington state. The updates in the standards proposed will further assure the public has continued access to safe medical treatment and therapies by licensed acupuncturists. Without the proposed standards a potential risk to public health would be patients seeking unregulated medical treatments by unlicensed practitioners.

**(4)(b) Whether the public can identify qualified practitioners.**

The Department of Health (DOH) has an easily navigable and searchable Web-site that lists all practitioners by name and license number so the public can identify qualified practitioners. All information regarding a practitioner's current licensing status or issues involving licensure is clearly marked and for public record. There are no changes in the proposed standards that would change this.

**(4)(c) The extent to which the public can be confident that qualified practitioners are competent.**

All practitioners must meet high standards of didactic and educational requirements for licensure as presently established by the Secretary of Health. Licensing is also contingent upon passing a national certification examination administered by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). The NCCAOM was founded in 1982 in order to establish, assess, and promote recognized standards of competence and safety in acupuncture and Oriental medicine for the protection and benefit of the public. NCCAOM certification indicates to employers, patients, and peers that one has met national standards for the safe and competent practice of acupuncture as defined by the profession. Washington state holds a high standard for licensing, including NCCAOM certification, and high educational requirements. We wish to elevate our scope of practice to reflect the level of training we receive.

**(4)(c)(i) Whether the proposed regulatory entity would be a board composed of members of the profession and public members, or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any; the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken against practitioners; and how fees would be levied and collected to cover the expenses of administering and operating the regulatory system.**

There are no proposed changes to current standards regarding regulation.

**(4)(c)(ii) If there is a grandfather clause, whether such practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.**

All licensed acupuncturists would be grandfathered in for all updates to scope of practice except for the techniques of in-office testing of urine, stool, saliva and blood, which we anticipate may require an additional professional development class to bring all licensed acupuncturists current in the use of

simple in-office tests of these body fluids. Licensed acupuncturists currently receive training in blood borne pathogens prior to starting clinical rotations. The professional development class would be required prior to application to the MTS (Medical Test Site) licensure program. The MTS license would be required to perform in-office testing, but in-office testing would not be required of licensed acupuncturists. Practitioners “opt-in” by taking the professional development class and applying for the MTS license and paying the fee for that license. (See Attachment C.)

**(4)(c)(iii) The nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions.**

Many other states already include in their statutes the seven (7) techniques that are being proposed in the new standards. (See Attachment D.)

**(4)(c)(iv) Whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.**

This is not applicable to a profession regulated under the Secretary of Health.

**(4)(c)(v) The nature and duration of any training including, but not limited to, whether the training includes a substantial amount of supervised field experience; whether training programs exist in this state; if there will be an experience requirement; whether the experience must be acquired under a registered, certificated, or licensed practitioner; whether there are alternative routes of entry or methods of meeting the prerequisite qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met.**

Current national educational standards include the training and testing of the seven (7) techniques listed in the proposed standards including the drawing of blood via lancets, with the exception of testing of urine, stool, saliva, and blood. These tests are simple to perform and fall under the classification of “waived tests” by federal and state regulating bodies. A professional development class will be offered with the cost of taking the professional development class in good laboratory practices for waived tests (“in-office tests”) before a licensed acupuncturist may apply for MTS licensure. Scheduling and cost of the class will be borne by the individual licensed acupuncturist and not by the Department of Health.

**(4)(c)(vi) What additional training programs are anticipated to be necessary to assure training accessible statewide; the anticipated time required to establish the additional training programs; the types of institutions capable of providing the training; a description of how training programs will meet the needs of the expected work force, including reentry workers, minorities, placebound students, and others.**

The testing of urine, stool, saliva, and blood in S-3257.2/09 2nd draft, Section 2 (o), fall under the category of “waived tests” and do not require CLIA certification. “Waived tests are simple lab examinations or procedures, cleared by FDA for home use, negligible likelihood of erroneous results, no reasonable risk of harm if performed incorrectly.” [Ref. Washington State Department of Health Laboratory Quality Assurance Web site: [http://www.doh.wa.gov/hsqa/FSL/LQA\\_Home.htm](http://www.doh.wa.gov/hsqa/FSL/LQA_Home.htm)] Licensed acupuncturists would be required to attend a professional development class in laboratory practices for in-office testing before a licensed acupuncturist may apply for MTS licensure. The anticipated training program will be based on industry standards for performing in-office tests. We anticipate the training program can be accomplished in a one day class, to be offered in several locations around the state. WAOMA has initiated discussions with several organizations/individuals to sponsor and teach this professional development class.

Additionally, if any test requires the discontinuation of a medication prescribed by another medical practitioner, such as the avoidance of non-steroidal anti-inflammatory drugs prior to fecal occult blood testing, the licensed acupuncturist will get a written authorization for the test from the prescribing practitioner who will direct the course of the medication.

**(4)(d) Assurance of the public that practitioners have maintained their competence.**

Assurance of practitioner competence is achieved through the public's ability to freely access licensing information and complaints through the Department of Health Web site or by contacting the Department of Health directly. Licensed acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession. Continued licensing shows qualifications and competence have been met as set by state regulations.

**(4)(d)(i) Whether the registration, certification, or licensure will carry an expiration date.**

There are no proposed changes to the current statute that would change the license renewal date.

**(4)(d)(ii) Whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement.**

No changes to current standards that renewal is based only on payment of a fee.

**(5) The extent to which regulation might harm the public.**

Current practices under the existing scope of practice have not harmed the public. Likewise, the proposed standards will not harm the public. The public has more to gain from the new standards as they increase the techniques available to licensed acupuncturists for more comprehensive treatment. Licensed acupuncturists have been practicing under the current scope of practice for 24 years with few disciplinary complaints and actions against individuals in the profession; we do not expect this to change.

**(5)(a) The extent to which regulation will restrict entry into the health profession: (i) Whether the proposed standards are more restrictive than necessary to insure safe and effective performance.**

The proposed standards do not restrict entry based on existing or new licensing requirements; there are no proposed changes to existing licensing requirements. The proposed standards are not more restrictive than necessary as they do not require mandatory use of the techniques by practitioners nor application to every patient.

**(5)(a)(ii) Whether the proposed legislation requires registered, certificated, or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification, and licensure when the other jurisdiction has substantially equivalent requirements for registration, certification, or licensure as those in this state.**

The proposed updates to the scope of practice do not alter the requirements that currently exist in statute related to practitioners who migrated to this state to qualify for licensure. All licensed acupuncturists would have to take a professional development class in in-office testing prior to applying for an MTS license if the practitioner wishes to perform in-office testing.

**(5)(b) Whether there are similar professions to that of the applicant group which should be included in, or portions of the applicant group which should be excluded from, the proposed legislation.**

There are no similar professions that have training in acupuncture or Oriental/Asian medicine that should be included or excluded from the current proposed Sunrise Review language.

**(6) The maintenance of standards: (a) Whether effective quality assurance standards exist in the health profession, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics.**

Current law requires that acupuncturists licensed under 18.06 must comply with the Uniform Disciplinary Act to maintain professional conduct and they must meet the qualification requirements under 18.06.050 Applications for examination — Qualifications. The proposed standards do not change these requirements.

**(6)(b) How the proposed legislation will assure quality, (i) The extent to which a code of ethics, if any, will be adopted.**

The proposed standards do not change or alter current licensing requirements. Currently there is a code of ethics that all applicants agree to as members of the NCCAOM, which is required for the initial application for acupuncture licensure in Washington state. The proposed updates to scope of practice do not change this. (See Attachment E.)

**(6)(b)(ii) The grounds for suspension or revocation of registration, certification, or licensure.**

Current law requires that acupuncturists licensed under 18.06 must comply with the Uniform Disciplinary Act to maintain professional conduct and they must meet the qualification requirements under 18.06.050 Applications for examination — Qualifications. The proposed standards do not change these requirements.

**(7) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group, and whether the groups represent different levels of practice.**

Acupuncturists licensed in Washington state under RCW 18.06. There is one level of practice for licensed acupuncturists in Washington state.

Washington Acupuncture and Oriental Medicine Association (WAOMA): 223 members

Advocates for the Advancement of Asian Medicine (AAAM): unknown number of members

South Sound Acupuncture Association: 29 members

Southwest Washington Acupuncture Group: 26 members

**(8) The expected costs of regulation:**

We expect that there will be some costs associated with rulemaking activities. We anticipate additional revenue to the state by the purchase of MTS licenses.

**(9) List and describe major functions and procedures performed by members of the profession (refer to titles listed above). Indicate percentage of time typical individual spends performing each function or procedure:**

Below is the proposed scope of practice for acupuncturists licensed under RCW 18.06. It is not possible to indicate the percentage of time an acupuncturist spends performing each function or procedure as it is an individual judgment made by each practitioner based on the needs of their patient and the patient's current diagnosis.

Current scope of practice is found in Chapter 18.06.010 RCW. The proposed changes to scope of practice are reflected in the language below. (See Attachment A.)

**Sec. 1.1.** A new section is added to chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which require more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act.

**Sec. 1.2.** RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "~~((Acupuncture))~~ Asian medicine" means a health care service ~~((based on an Oriental system of medical theory))~~ utilizing ~~((Oriental))~~ diagnosis and treatment to promote health and treat organic or functional disorders ~~((by treating specific acupuncture points or meridians. Acupuncture))~~ and includes the following ~~((techniques))~~:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); ~~((and))~~

(k) Dietary advice based on ~~((Oriental))~~ Asian medical theory ~~((provided in conjunction with techniques under (a) through (j) of this subsection))~~;

(l) Breathing, relaxation, and exercise techniques;

(m) Qi gong;

(n) Health education;

(o) In-office testing of: Temperature, blood pressure, oscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment;

(p) Massage and Tui na;

(q) Heat and cold therapies; and

(r) Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements.



Attachment A to Applicant Report

**Attachment A – Bill Draft - was removed for inclusion in the sunrise report because it is in a separate appendix.**

## Attachment B to Applicant Report

### Definitions of Proposed Techniques

Breathing, relaxation, and exercise techniques: techniques of breathing, visualization and movement therapy wherein the practitioner directs the patient in the use of these techniques to improve and maintain health and achieve physical and mental relaxation and strengthening.

Qi gong (“chee gong”): a form of Chinese exercise stimulation therapy that includes techniques of breathing, visualization, and (often) movement. It is based on the theories of Asian medicine yin-yang, the five elements, and a meridian view of the body. Qi gong can be divided into external qi gong, in which the practitioner encourages and directs the free flow of qi (“chee”) (the body’s energy) for the patient, and internal qi gong, wherein a practitioner teaches the techniques to the patient for use by the patient at home.

Health education: educational information directed to the patient that attempts to improve, maintain, promote, and safeguard the health and health care of the patient.

In-office testing of: Temperature, blood pressure, auscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment. Simple in-office testing of these body fluids for pregnancy, ovulation, urine dipstick analysis, fecal occult blood, cholesterol, homocysteine, blood glucose, HbA1C, pH, etc., by CLIA-waived point of care testing. [Refer to [http://www.doh.wa.gov/hsqa/FSL/Documents/LQA\\_Docs/Waivedtests.pdf](http://www.doh.wa.gov/hsqa/FSL/Documents/LQA_Docs/Waivedtests.pdf).]

Massage: manipulation of the soft tissues of the body for the purpose of normalizing those tissues and consists of manual techniques that include applying fixed or movable pressure, holding, and/or causing movement of or to the body.

Tui na (“twee nah”): a therapeutic form of manual therapy bodywork that originated in China. The application of various Tui Na techniques is based on the theories of Chinese medicine yin-yang, the five elements, and a meridian view of the body. The goal is to encourage free flow of qi (“chee”) (the body’s energy). Tui Na can be used to treat acute conditions as well as for constitutional disharmonies. Tui na techniques include, but are not limited to, massage, acupoint stimulation, and forceful maneuvers including pushing, rolling, kneading, rubbing, and grasping of bones, viscera, and soft tissue.

Heat and cold therapies: direct and indirect application of heat and cold to the body.

Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements: recommendations and dispensing based on the practitioner’s diagnosis of the patient.

Attachment C to Applicant Report  
Good Laboratory Practices and Waived Test Systems  
Page 1 of 2

Modified From the Washington State Department of Health Office of Laboratory Quality Assurance Powerpoint, "Good Laboratory Practices with waived test systems," January 2002

Under ***Clinical Laboratory Improvement Amendments*** (CLIA) tests are categorized by complexity: Waived, PPMP, Moderate, High.

Waived tests are defined as simple lab examinations or procedures, cleared by FDA for home use, negligible likelihood of erroneous results, no reasonable risk of harm if performed incorrectly.

"Waived" means waived from most requirements established for tests of higher complexity, site inspections are not routinely performed. proficiency testing is not required, personnel qualifications are not established.

Washington state regulations for waived testing: obtain a Medical Test Site (MTS) license, tell the Washington State Department of Health Office of Laboratory Quality Assurance which waived tests will be performed, follow manufacturer's instructions for performance of the test.

Waived tests are simple, but any test can produce erroneous results if not performed properly. Any test worth running should be associated with good laboratory practices and good risk management practices, such as: have a current product insert and make sure it states "CLIA waived." Focus on these sections: intended use, product storage, precautions/warnings, patient preparation, specimen collection, test procedure, procedural notes, quality control, results/interpretation, limitations, expected results, product storage (kits, reagents, test devices "store refrigerated at 2 – 8 degrees C, " "keep 3 months at room temperature," "cassettes must be stored in sealed foil pouches," "store out of sunlight," "strips must be kept in bottle with cap tightly closed"), precautions/warnings: proper handling of kits, reagents, test devices ("do not use past expiration," "do not mix components of different lots or kits," "should not be interpreted by individuals with blue color deficiency (color blindness)," "do not interchange caps on reagents.") Patient preparation: Examples: CLO test "discontinue use of antibiotics and bismuth preparations 3 weeks before biopsy," Occult blood "for 7 days ... avoid non-steroidal anti-inflammatory drugs, for 3 days ... avoid vitamin C in excess of 250 mg a day, ... avoid red meats ..." (**Note:** if any test requires the discontinuation of a medication prescribed by another medical practitioner, such as the avoidance of non-steroidal anti-inflammatory drugs, the licensed acupuncturist will get a written authorization for the test from the prescribing practitioner who will direct the course of the medication.) Specimen collection and handling and acceptable types of specimens: "finger stick or venipuncture," "can be stored at room temperature for 4 hours and up to 72 hours if refrigerated," "do not use swabs that have cotton tips or wooden shafts."

Follow test procedure/directions/instructions: follow exactly, don't modify, adhere to timing.

Follow procedural notes: "do not open foil pouch until ready to test ... avoid cross contamination ... read results within 20 minutes," "directions must be followed exactly, accurate timing is essential," "allow specimen and test devices to warm to room temperature before use."

Attachment C, page 2 of 2

Quality control: The types of controls to be tested vary with the specific test system used External, Internal, Electronic. Test controls according to the manufacturer's instructions Read the entire Quality Control section carefully. Assure that results are the expected results for the controls tested. Quality control external controls: reference solutions or materials (i.e., swabs), added

to test device like the patient sample, may be included with the test kit or you may need to purchase separately. Compare the control results to the expected ranges or values printed on the control vials or in the control product insert. Quality control: Internal (built-in, procedural) controls, built into test reagent devices to ensure that reagents are active, reagents & samples are added correctly, test performs according to specifications, common with qualitative tests (Strep antigen, pregnancy, H. pylori, mononucleosis), procedural controls typically include the appearance of a colored dot, line or bar in a control region and/or an expected appearance of the device background. Quality control: Electronic controls - Inert, reusable devices (test strips, cartridges, cassettes), used to check instrument performance specifications, available for use with some quantitative test systems (hemoglobin, cholesterol, A1C, prothrombin time), compare the control results with the expected values.

Results/Interpretation: positive, negative, invalid, reportable range of method (“patient values are linear from 2.5% to 14.0%,” “linear up to 23.5 g/dl”); Limitations of procedure: causes of false positives, false negatives; Expected results, values.

Good laboratory practices: Test controls - Follow manufacturer instructions: “positive and negative controls should be tested with each new lot or shipment of test materials,”

“Daily Requirements: two levels of electronic quality control or two levels of liquid controls must be tested...,” “a positive and negative control must be tested when opening a new test kit and with each change in operator within the test kit,” “check the calibration daily by using the control cuvette.”

Good laboratory practices: At minimum, test external controls with each new lot of kits, reagents, or testing devices to detect problems during shipment; Observe internal (built-in, procedural) controls with each patient test to assure proper test performance, reagent integrity; Test electronic controls periodically according to manufacturer’s instructions & frequency.

Good laboratory practices: Correlate test results with patient presentation, history, diagnosis; participate in a proficiency testing (PT) program, split sample program: compare your results with reference laboratory.

Training: have new employees read the entire product insert not just the Quick Reference Card, keep a record of training, have each employee demonstrate competency (initially, periodically).

Keep a simple log of results: by keeping results of the following in chronological order, you can detect potential problems: new lots of reagents, kits, testing devices; quality control results; patient test results.

Report test system problems to manufacturer, to Food & Drug Administration’s MedWatch  
Call 1-800-FDA-1088. Direct questions to the Office of Lab Quality Assurance: (206) 418-5600,  
website: [www.doh.wa.gov](http://www.doh.wa.gov)

Attachment D to Applicant Report  
Scope and Techniques from Other States  
Page 1 of 7

ALABAMA

Alabama is a state in which there is no legislation or rules authorizing the practice by licensed acupuncturists.

ALASKA AS 08.06 and 12 AAC 05

Sec. 08.06.190. Definitions. In this chapter

- (1) "acupuncture" means a form of healing developed from traditional Chinese medical concepts that uses the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions;
- (2) "department" means the Department of Commerce, Community, and Economic Development;
- (3) "practice of acupuncture" means the insertion of sterile acupuncture needles and the application of moxibustion to specific areas of the human body based upon acupuncture diagnosis; the practice of acupuncture includes adjunctive therapies involving mechanical, **thermal**, electrical, and electromagnetic treatment and the **recommendation of dietary guidelines and therapeutic exercise.**

ARKANSAS 17-102-101 Title I 16.B.

SCOPE OF PRACTICE: The practice of oriental medicine in Arkansas is a distinct system of primary health care with the goal of prevention, cure, or correction of any illness, injury pain or other physical or mental condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. **Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine world wide.** The scope of practice of Doctors of Oriental Medicine shall include but is not limited to:

Evaluation and management services.

**Examination and diagnostic testing.**

**The ordering of radiological, laboratory or other diagnostic tests.**

The procedures of Acupuncture and other related procedures.

The stimulation of points or areas of the body using needles, **heat, cold**, light, lasers, sound, vibration, magnetism, electricity, bleeding, suction, pressure, Gua Sha, or other devices or means.

Physical medicine modalities and techniques.

**Therapeutic exercises, breathing techniques, meditation**, and the use of biofeedback and other devices that utilize color, light, sound, electromagnetic energy and other means therapeutically.

**Dietary and nutritional counseling and the administration of food, beverages and dietary supplements therapeutically.**

The prescription or administration of any herbal medicine, homeopathic medicine, or substances such as vitamins, minerals, enzymes, glandulars, amino acids and nutritional or dietary supplements, unless otherwise prohibited by State or federal law or regulation.

**Counseling regarding physical, emotional and spiritual balance in lifestyle.**

ARIZONA [32-3901](#)

1. "Acupuncture" means puncturing the skin by thin, solid needles to reach subcutaneous structures, stimulating the needles to affect a positive therapeutic response at a distant site and the use of adjunctive therapies.
2. "Adjunctive therapies" means the **manual, mechanical**, magnetic, **thermal**, electrical or electromagnetic stimulation of acupuncture points and energy pathways, auricular and detoxification therapy, ion cord devices, electroacupuncture, **herbal poultices, therapeutic exercise and acupressure.**

Delaware

Delaware is a state in which there is no legislation or rules authorizing the practice by licensed acupuncturists

## Attachment D: Page 2 of 7

### Florida

#### STATUTE Chapter 457.102

"Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by board rule."

### Florida RULES

#### 64B1-3.001 Definitions.

(1) Acupuncture means a form of primary health care based on traditional Chinese medical concepts, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include but not be limited to the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body.

(2) Acupuncture shall include, but not be limited to:

(a) Auricular, hand, nose, face, foot and/or scalp acupuncture therapy;

(b) Stimulation to acupuncture points and channels by use of any of the following:

1. Needles, moxibustion, cupping, thermal methods, magnets, gwa-sha scraping techniques, acupatches, and acuform;

2. Manual stimulation including acutotement (which is defined as stimulation by an instrument that does not pierce the skin), massage, acupressure, reflexology, shiatsu, and tui-na;

3. Electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation;

4. Laser biostimulation in accordance with relevant federal law including Food and Drug Administration rules and regulations, providing written notice of such intended use together with proof of compliance with federal requirements are received by the Board of Acupuncture not less than 14 days prior to first time use.

(3) Acupuncture diagnostic techniques shall include but not be limited to the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, five element correspondence, ryodoraku, akabani, German electro acupuncture, Kirlian photography, and thermography.

(4) The needles used in acupuncture shall be solid filiform instruments which shall include but not be limited to: dermal needles, plum blossom needles, press needles, prismatic needles and disposable lancets. The use of staples in the practice of acupuncture shall be prohibited.

(5) Adjunctive therapies shall include but not be limited to:

(a) Nutritional counseling and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements, as dietary supplements to promote health;

(b) Recommendation of breathing techniques and therapeutic exercises;

(c) Lifestyle and stress counseling;

(d) The recommendation of all homeopathic preparations approved by the Food and Drug Administration and the United States Homeopathic Pharmacopeia Committee; and

(e) Herbology.

Specific Authority 457.102, 457.104 FS. Law Implemented 457.102 FS. History--New 8-13-84, Amended 9-19-84, Formerly 21AA-3.01, Amended 12-14-87, 9-3-89, 5-30-91, 1-26-92, 2-27-92, Formerly 21AA-3.001, 61F1-3.001, 59M-3.001, Amended 9-6-06.

### GEORGIA

(4) "Practice of acupuncture" means the insertion of disposable acupuncture needles and the application of moxibustion to specific areas of the human body based upon Oriental medical principles as a therapeutic modality. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, herbal, thermal, electrical, and electromagnetic treatment and the recommendation of dietary guidelines and exercise, but only if such treatments, recommendations, and exercises are based on concepts of traditional Oriental medicine and are directly related to acupuncture therapy.

### CALIFORNIA

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

## Attachment D: Page 3 of 7

### COLORADO

(3.5) "Practice of acupuncture" means the insertion and removal of acupuncture needles, the application of **heat therapies** to specific areas of the human body, and traditional oriental adjunctive therapies. Traditional oriental adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, the recommendation of **oriental therapeutic exercises**, and, subject to federal law, the **recommendation of herbs and dietary guidelines**.

D.C. (District of Columbia) statute not indicated:

[http://hpla.doh.dc.gov/hpla/cwp/view,A,1195,Q,488806,hplaNav,\[30661\],.asp](http://hpla.doh.dc.gov/hpla/cwp/view,A,1195,Q,488806,hplaNav,[30661],.asp)

Acupuncture is a health care service based on an Oriental system of medical theory. Acupuncture uses Oriental diagnosis and treatment to promote health and treat organic or functional disorders through specific acupuncture points or meridians. Acupuncture includes the following techniques:

Use of acupuncture needles to stimulate acupuncture points and meridians

Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians

Moxibustion

Acupressure

Cupping

Dermal friction technique

**Infra-red**

**Sonopuncture**

**Laserpuncture**

Point injection therapy (aquapuncture)

**Dietary advice based on Oriental medical theory provided in conjunction with all techniques listed above**

### HAWAII HRS Chapter 16-72

§16-72-4 Authorized practice of acupuncture. An acupuncture practitioner is authorized to conduct treatment of the human body by means of stimulation of a certain acupuncture point or points for the purpose of controlling and regulating the flow and balance of energy in the body. The practice includes the techniques of piercing the skin by inserting needles and point stimulation by the use of acupressure, electrical, mechanical, **thermal therapy**, moxibustion, cupping, or traditional therapeutic means.

### IDAHO

(1) "Acupuncture" means that theory of health care developed from traditional and modern Oriental medical philosophies that employs diagnosis and treatment of conditions of the human body based upon stimulation of specific acupuncture points on meridians of the human body for the promotion, maintenance, and restoration of health and for the prevention of disease. Therapies within the scope of acupuncture include manual, **mechanical**, **thermal**, electrical and electromagnetic treatment of such specific indicated points.

**Adjunctive therapies included in, but not exclusive to, acupuncture include herbal and nutritional treatments, therapeutic exercise and other therapies based on traditional and modern Oriental medical theory.**

### ILLINOIS

"Acupuncture" means the evaluation or treatment of persons affected through a method of stimulation of a certain point or points on or immediately below the surface of the body by the insertion of pre-sterilized, single-use, disposable needles, unless medically contraindicated, **with or without the application of heat**, electronic stimulation, or manual pressure to prevent or modify the perception of pain, to normalize physiological functions, or for the treatment of certain diseases or dysfunctions of the body and includes activities referenced in Section 15 of this Act for which a written referral is not required. Acupuncture does not

## Attachment D: Page 4 of 7

include radiology, electrosurgery, chiropractic technique, physical therapy, naprapathic technique, use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums, or vaccines, or determination of a differential diagnosis. An acupuncturist registered under this Act who is not also licensed as a physical therapist under the Illinois Physical Therapy Act shall not hold himself or herself out as being qualified to provide physical therapy or physiotherapy services. An acupuncturist shall refer to a licensed physician or dentist, any patient whose condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the acupuncturist.

### INDIANA

"Acupuncture"

Sec. 2. "Acupuncture" means a form of health care employing traditional and modern Oriental medical concepts, Oriental medical diagnosis and treatment, and **adjunctive therapies and diagnostic techniques** for the promotion, maintenance, and restoration of health and the prevention of disease.

IC 25-2.5-1-5

"Practice of acupuncture"

Sec. 5. "Practice of acupuncture" means the insertion of acupuncture needles, the application of moxibustion to specific areas of the human body based upon Oriental medical diagnosis as a primary mode of therapy, and other means of applying acupuncture under this chapter.

As added by P.L.265-1999, SEC.1.

### IOWA

CHAPTER 148E

148-E1. "Acupuncture" means promoting, maintaining, or restoring health based on traditional oriental medical concepts of treating specific areas of the human body, known as acupuncture points or meridians, by performing any of the following practices:

- a. Inserting acupuncture needles.
- b. Moxibustion.
- c. Applying manual, **conductive thermal**, or electrical stimulation through use of acupuncture needles or any other secondary therapeutic technique except for use of other electromagnetic or ultrasound energy sources.

### MARYLAND

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 26 BOARD OF ACUPUNCTURE

Chapter 02 General Regulations

(8) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health including:

- (a) Stimulation of points of a human or animal body by the insertion of acupuncture needles;
- (b) The application of moxibustion; and
- (c) Manual, mechanical, **thermal**, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.

### MAINE

BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS HEADING

1. Acupuncture. "Acupuncture" means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and **with or without the application of electric current or heat** to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.

[ 2003, c. 666, §1 (AMD) .]

§12401. Maine Acupuncture Licensing Board  
(REPEALED)



MINNESOTA

Chapter 147B. ACUPUNCTURE PRACTITIONERS

.Acupuncture practice.

"Acupuncture practice" means a comprehensive system of health care using Oriental medical theory and its unique methods of diagnosis and treatment. Its treatment techniques include the insertion of acupuncture needles through the skin and the use of other biophysical methods of acupuncture point stimulation, including the use of **heat**, Oriental massage techniques, electrical stimulation, **herbal supplemental therapies, dietary guidelines, breathing techniques, and exercise based on Oriental medical principles.**

Acupuncture points.

"Acupuncture points" means specific anatomically described locations as defined by the recognized acupuncture reference texts. These texts are listed in the study guide to the examination for the NCCAOM certification exam.

9.Breathing techniques.

"**Breathing techniques**" means Oriental breathing exercises taught to a patient as part of a treatment plan.

Subd. 10.Cupping.

"Cupping" means a therapy in which a jar-shaped instrument is attached to the skin and negative pressure is created by using suction.

Subd. 11.Dermal friction.

"Dermal friction" means rubbing on the surface of the skin, using topical ointments with a smooth-surfaced instrument without a cutting edge that can be sterilized or, if disposable, a onetime only use product.

Subd. 14.Herbal therapies.

"**Herbal therapies**" are the use of herbs and patent herbal remedies as supplements as part of the treatment plan of the patient.

Oriental medicine.

"Oriental medicine" means a system of healing arts that perceives the circulation and balance of energy in the body as being fundamental to the well-being of the individual. It implements the theory through specialized methods of analyzing the energy status of the body and treating the body with acupuncture and other related modalities for the purpose of strengthening the body, improving energy balance, maintaining or restoring health, improving physiological function, and reducing pain.

MISSOURI

"Acupuncture", the use of needles inserted into the body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body so as to restore the body to its proper functioning and state of health;

NEW MEXICO

Title 16 - Occupational and Professional Licensing

16.2.2.8 SCOPE OF PRACTICE: Pursuant to Section 61-14A-3 NMSA 1978, the practice of oriental medicine in New Mexico is a distinct system of primary health care with the goal of prevention, cure, or correction of any disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine worldwide. **The scope of practice of doctors of oriental medicine shall include but is not limited to:**

A. evaluation, management and treatment services;

B. **diagnostic examination, testing and procedures;**

C. the ordering of diagnostic imaging procedures and laboratory or other diagnostic tests;

D. the surgical procedures of acupuncture and other related procedures, as well as injection therapy; injection therapy may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);

- E. the stimulation of points, areas of the body or substances in the body using qi, needles, heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy, bleeding, suction, or other devices or means;
- F. physical medicine modalities, procedures and devices; spray and stretch techniques using prescription vapocoolants may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 NMAC (Section 10 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- G. therapeutic exercises, qi exercises, breathing techniques, meditation, and the use of biofeedback devices and other devices that utilize heat, cold, color, light, infrared and ultraviolet, lasers, sound, vibration, pressure, magnetism, electricity, electromagnetic energy and other means therapeutically;
- H. dietary and nutritional counseling and the prescription or administration of food, beverages and dietary supplements therapeutically;
- I. counseling and education regarding physical, emotional and spiritual balance in lifestyle;
- J. the prescription or administration of any herbal medicine, homeopathic medicine, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, gerovital, amino acids and dietary and nutritional supplements; the injection of any of the above substances may only be performed by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- K. the prescription or administration of cosmetics, biological products including therapeutic serum and over the counter drugs other than those enumerated in Section 61-14A-3.G.(2) of the act by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 16.2.2.11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- L. the prescription or administration of sterile water, sterile saline, sarapin or its generic and vapocoolants by a doctor of oriental medicine who is certified for the extended (Rx1) or expanded (Rx2) prescriptive authority pursuant to 16.2.2.10 and 11 NMAC (Sections 10 and 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- M. the prescription or administration of caffeine, procaine, oxygen, epinephrine, bioidentical hormones and those substances listed in the prescriptive authority formulary defined in 16.2.2.13 NMAC (Section 13 of Part 2 of the rules) by a doctor of oriental medicine who is certified for the expanded prescriptive authority (Rx2) pursuant to 16.2.2.11 NMAC (Section 11 of Part 2 of the rules) or a temporary licensee for the purposes specified in Section 61-14A-12 of the act and 16.2.5 NMAC (Part 5 of the rules);
- N. the prescription or administration of devices, restricted devices and prescription devices as defined in the New Mexico Drug, Device and Cosmetic Act (Section 26-1-1 NMSA 1978) by a doctor of oriental medicine who meets the requirements of 16.2.2.9 NMAC (Section 9 of Part 2 of the rules).
- [16.2.2.8 NMAC - Rp, 16.2.2.8 NMAC, 02-15-05]

## MASSACHUSETTES

### PART I. ADMINISTRATION OF THE GOVERNMENT

#### TITLE XVI. PUBLIC HEALTH

#### CHAPTER 112. REGISTRATION OF CERTAIN PROFESSIONS AND OCCUPATIONS

#### REGISTRATION OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

##### Chapter 112: Section 148. Definitions

“Acupuncture”, the practice of medicine based on Traditional Oriental Medical Theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve body function. Electroacupuncture, whether utilizing electrodes on the surface of the skin or current applied to inserted needles will be considered the practice of acupuncture.

Attachment D: Page 7 of 7

OREGON

OREGON MEDICAL BOARD

DIVISION 70

ACUPUNCTURE

847-070-0005

"Acupuncture" means an Oriental health care practice used to promote health and to treat neurological, organic or functional disorders by the stimulation of specific points on the surface of the body by the insertion of needles. "Acupuncture" includes the treatment method of moxibustion, as well as the use of electrical, thermal, mechanical or magnetic devices, with or without needles, to stimulate acupuncture points and acupuncture meridians and to induce acupuncture anesthesia or analgesia.(a) The practice of acupuncture also includes the following modalities as authorized by the Oregon Medical Board for the State of Oregon:

(A) Traditional and modern Oriental Medical and acupuncture techniques of diagnosis and evaluation;

(B) Oriental massage, exercise and related therapeutic methods; and

(C) The use of Oriental pharmacopoeia, vitamins, minerals and dietary advice.

TEXAS

THIS DOCUMENT IS CURRENT THROUGH ALL 2003 REG. SESSION LEGISLATION

OCCUPATIONS CODE

TITLE 3.HEALTH PROFESSIONS

SUBTITLE C.OTHER PROFESSIONS PERFORMING MEDICAL PROCEDURES

CHAPTER 205.ACUPUNCTURE

SUBCHAPTER A.GENERAL PROVISIONS

[§205.001. Definitions](#)

2) "Acupuncture" means:

(A) the nonsurgical, nonincisive insertion of an acupuncture needle and the application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition, including evaluation and assessment of the condition; and

(B) the administration of thermal or electrical treatments or the recommendation of dietary guidelines, energy flow exercise, or dietary or herbal supplements in conjunction with the treatment described by Paragraph (A).

Professional Code of Ethics from the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)

All practitioners certified by the National Certification Commission for Acupuncture and Oriental Medicine must be committed to responsible and ethical practice, to the growth of the profession's role in the broad spectrum of American health care, and to their own professional growth. All Diplomates, Applicants and Candidates for certification agree to be bound by the NCCAOM Code of Ethics.

**A. Commitment to the Patient**

1. Respect the rights and dignity of each person I treat.
2. Accept and treat those seeking my services in a nondiscriminatory manner.
3. Keep the patient informed by explaining treatments and outcomes.
4. Protect the confidentiality of information acquired in the course of patient care.
5. Maintain professional boundaries in relationships with patients and avoid any relationships that may exploit practitioner/patient trust.
6. Keep accurate records of each patient's history and treatment.
7. Treat only within my lawful scope of practice.
8. Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate.
9. Avoid treating patients if I am unable to safely and effectively treat due to substance abuse, physical or psychological impairment.
10. Bill patients and third party payers accurately and fairly.
11. Not engage in sexual contact with a current patient if the contact commences after the practitioner/patient relationship is established.
12. Not engage in sexual contact with a former patient unless a reasonable period of time has elapsed since the professional relationship ended and the sexual contact does not exploit the trust established during the professional relationship.

**B. Commitment to the Profession**

1. Continue to work to promote the highest standards of the profession.
2. Provide accurate, truthful, and non-misleading information in connection with any application for licensure, certification, NCCAOM disciplinary investigation or proceeding or recertification.
3. Report any changes to the information on my application regarding professional ethics and my on-going fitness to practice, including but not limited to reporting to the NCCAOM any disciplinary action taken by a school or regulating agency against me, and any criminal charges or civil actions that may be relevant to my health care practice or fitness to practice.
4. Comply with NCCAOM Examination Policies.
5. Report to NCCAOM or appropriate licensing authorities information about any violations by me or by my peers of the Code of Ethics or Grounds for Professional Discipline.

**C. Commitment to the Public**

1. Provide accurate information regarding my education, training and experience, professional affiliations, and certification status.

2. Refrain from any representation that NCCAOM certification implies licensure or a right to practice unless so designated by the laws in the jurisdiction in which I practice.
3. Use only the appropriate professional designations for my credentials.
4. Advertise only accurate, truthful, non-misleading information and refrain from making public statements on the efficacy of Oriental medicine that are not supported by the generally accepted experience of the profession.
5. Respect the integrity of other forms of health care and other medical traditions and seek to develop collaborative relationships to achieve the highest quality of care for individual patients.
6. Comply with all public health and public safety reporting duties imposed on licensed health care professionals.

## Appendix B: Bill Draft

AN ACT Relating to Asian medicine practitioners; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.080, 18.06.120, 18.06.130, 18.06.140, 18.06.190, 4.24.240, 4.24.290, 7.70.020, 18.120.020, and 43.70.110; and adding a new section to chapter 18.06 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.3.** A new section is added to chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine to promote wellness and to prevent, diagnose, and treat disease drawing upon the experience, learning, and traditions originating in East Asia, which require more than acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act.

**Sec. 1.4.** RCW 18.06.010 and 1995 c 323 s 4 are each amended to read as follows:

The following terms in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) "~~((Acupuncture))~~ Asian medicine" means a health care service ~~((based on an Oriental system of medical theory))~~ utilizing ~~((Oriental))~~ diagnosis and treatment to promote health and treat organic or functional disorders ~~((by treating specific acupuncture points or meridians.~~ Acupuncture) and includes the following ~~((techniques))~~:

(a) Acupuncture, including the use of acupuncture needles or lancets to directly and indirectly stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) Point injection therapy (aquapuncture); ~~((and))~~

(k) Dietary advice based on ~~((Oriental))~~ Asian medical theory ~~((provided in conjunction with techniques under (a) through (j) of this subsection));~~

(l) Breathing, relaxation, and exercise techniques;

(m) Qi gong;

(n) Health education;

(o) In-office testing of: Temperature, blood pressure, oscultation, weight, body fat percentage, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment;

(p) Massage and Tui na;

(q) Heat and cold therapies; and

(r) Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements.

(2) "~~((Acupuncturist))~~ Asian medicine practitioner" means a person licensed under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

Nothing in this chapter requires individuals to be licensed as an Asian medicine practitioner in order to sell herbal products.

**Sec. 1.5.** RCW 18.06.020 and 1995 c 323 s 5 are each amended to read as follows:

(1) No one may hold themselves out to the public as an acupuncturist or ~~((licensed acupuncturist))~~ Asian medicine practitioner or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or ~~((licensed acupuncturist))~~ practitioner of Asian medicine unless licensed as provided for in this chapter.

(2) A person may not practice Asian medicine, including acupuncture, if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including AMP or L. Ac.) which indicates a degree or formal training in Asian medicine, including acupuncture, unless licensed as provided for in this chapter.

(4) The secretary may by rule proscribe or regulate advertising and other forms of patient solicitation which are likely to mislead or deceive the public as to whether someone is licensed under this chapter. Only a person licensed as an Asian medicine practitioner under this chapter may also refer to himself or herself as an acupuncturist.

(5) Any person licensed as an acupuncturist under this chapter prior to the effective date of this section must, at the date of their next license renewal date, be given the title Asian medicine practitioner.

**Sec. 1.6.** RCW 18.06.045 and 1995 c 323 s 6 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual credentialed under the laws of this state and performing services within such individual's authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) The practice of Asian medicine, including acupuncture, by any person credentialed to perform Asian medicine, including acupuncture, in any other jurisdiction where such person is doing so in the course of regular instruction of a school of acupuncture approved by the secretary or in an educational seminar by a professional organization of acupuncture, provided that in the latter case, the practice is supervised directly by a person licensed under this chapter or licensed under any other healing art whose scope of practice (~~((includes))~~) is Asian medicine, including acupuncture.

**Sec. 1.7.** RCW 18.06.050 and 2004 c 262 s 2 are each amended to read as follows:

Any person seeking to be examined shall present to the secretary at least forty-five days before the commencement of the examination:

(1) A written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require; and

(2) Proof that the candidate has:

(a) Successfully completed a course, approved by the secretary, of didactic training in basic sciences and Asian medicine, including acupuncture, over a minimum period of two academic years. The training shall include such subjects as anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and a survey of western clinical sciences. The basic science classes must be equivalent to those offered at the collegiate level. However, if the applicant is a licensed chiropractor under chapter 18.25 RCW or a naturopath licensed under chapter 18.36A RCW, the requirements of this subsection relating to basic sciences may be reduced by up to one year depending upon the extent of the candidate's qualifications as determined under rules adopted by the secretary;

(b) Successfully completed five hundred hours of clinical training in acupuncture that is approved by the secretary.

**Sec. 1.8.** RCW 18.06.080 and 2009 c 560 s 2 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in Asian medicine, including acupuncture, at least twice a year at such times and



places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a licensure examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by ~~((licensed acupuncturists))~~ an Asian medicine practitioner and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of ~~((Licensed Acupuncturist))~~ Asian medicine practitioner.

(4) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

**Sec. 1.9.** RCW 18.06.120 and 1996 c 191 s 3 are each amended to read as follows:

(1) Every person licensed ~~((in acupuncture))~~ under this chapter shall comply with the administrative procedures and administrative requirements for registration and renewal set by the secretary under RCW 43.70.250 and 43.70.280.

(2) All fees collected under this section and RCW 18.06.070 shall be credited to the health professions account as required under RCW 43.70.320.

**Sec. 1.10.** RCW 18.06.130 and 2003 c 53 s 121 are each amended to read as follows:

(1) The secretary shall develop a form to be used by ~~((an acupuncturist))~~ a person licensed under this chapter to inform the patient of the ~~((acupuncturist's))~~ scope of practice and qualifications of an Asian medicine practitioner. All license holders shall bring the form to the attention of the patients in whatever manner the secretary, by rule, provides.

(2) A person violating this section is guilty of a misdemeanor.

**Sec. 1.11.** RCW 18.06.140 and 2003 c 53 s 122 are each amended to read as follows:

(1) Every ~~((licensed acupuncturist))~~ person licensed under this chapter shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

(2) When ~~((the acupuncturist))~~ a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the ~~((acupuncturist))~~ practitioner shall immediately request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to

authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be continued.

(3) A person violating this section is guilty of a misdemeanor.

**Sec. 1.12.** RCW 18.06.190 and 1995 c 323 s 13 are each amended to read as follows:

The secretary may license a person without examination if such person is credentialed as an Asian medicine practitioner or licensed acupuncturist, or equivalent, in another jurisdiction if, in the secretary's judgment, the requirements of that jurisdiction are equivalent to or greater than those of Washington state.

**Sec. 1.13.** RCW 4.24.240 and 1995 c 323 s 1 are each amended to read as follows:

(1)(a) A person licensed by this state to provide health care or related services((~~r~~)) including, but not limited to, ((~~a licensed acupuncturist~~)) an Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician((~~s~~)) assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

**Sec. 1.14.** RCW 4.24.290 and 1995 c 323 s 2 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the

healing arts including, but not limited to, an ~~((acupuncturist))~~ Asian medicine practitioner licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

**Sec. 1.15.** RCW 7.70.020 and 1995 c 323 s 3 are each amended to read as follows:

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services~~((7))~~ including, but not limited to, ~~((a licensed acupuncturist))~~ an Asian medicine practitioner, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician~~((15))~~ assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

**Sec. 1.16.** RCW 18.120.020 and 2001 c 251 s 26 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health

profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; (~~acupuncturists~~) Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

**Sec. 1.17.** RCW 43.70.110 and 2009 c 403 s 5 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors

licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and ((~~acupuncturists~~)) Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

## Appendix C: Follow-Up Questions and Responses from Applicant

### Responses to Acupuncturist Scope/Title Sunrise Review Follow Up Questions on Applicant Report

#### Education and Examination

1. Please clarify how the NCCAOM national examination adequately tests specifically for the additional techniques proposed.

**Answer:** There are three exam modules administered by the NCCAOM national examination for the designation of acupuncturist, that test for the additional proposed techniques for Licensed Acupuncturists. They are the Foundations of Oriental Medicine Module; the Acupuncture with Point Location Module; and the Biomedicine Module. The majority of the additional proposed techniques, bill draft Section 1.4(1)(l)-(n), (p)-(r), are tested in section D - “Oriental Medicine Treatment, Planning, Principles, and Strategies,” which makes up 39% of the total Foundations of Oriental Medicine Module exam (see Attachment 1); and section B - “Treatment,” which makes up 33% of the Acupuncture with Point Location Module exam (see Attachment 2). The additional proposed technique, bill draft Section 1.4(1)(o), is tested in section B - “Western Medical Assessment,” of the Biomedicine Module, which is 60% of total Biomedicine exam (see Attachments 3 and 3A). The NCCAOM Study Guide can be found at: [http://nccaom.org/exams/pdfdocs/StudyGuide/Ac\\_Study\\_Guide\\_Final%203.pdf](http://nccaom.org/exams/pdfdocs/StudyGuide/Ac_Study_Guide_Final%203.pdf)

2. You state in the applicant report that the additional modalities allow practitioners to fully utilize their training. Can you provide evidence that all the additional modalities are being taught in all acupuncture programs? In addition, are they taught at equal levels whether it is an acupuncture program or an acupuncture and oriental medicine program?

**Answer:** All of the modalities are found in the NCCAOM exam requirements. While the exact number of credit hours for each modality varies by institution, the three main acupuncture programs in the state meet or exceed the requirements for candidates to sit for the NCCAOM exam. Most of the additional requested modalities are taught at equal levels within the acupuncture and acupuncture and Oriental medicine (AOM) programs. Not all programs offer an additional AOM degree. The AOM programs offer additional training in herbs. Currently all students at the schools of Asian/Oriental medicine in Washington State must complete courses in Western sciences before students may enter their clinical internships. The Western sciences requirements are outlined in WAC 246-802-040. These classes are where students gain a solid foundation of basic and biomedical sciences in order to understand the implications from a conventional medical standpoint of the conditions a patient may present, and be able to communicate with practitioners from other medical fields.

#### In-Office Testing

1. Why does the MTS license need to be part of their scope of practice? Isn't this completely separate?

**Answer:** The MTS license is not part of the scope of practice, i.e., it is not in the bill draft and not included in RCW 18.06. We anticipate the details of the in-office testing will be defined in WAC; at that time the MTS license may be included if recommended by the Department. The MTS license is separate, but is included in the applicant report for a couple reasons: 1) To demonstrate that the inclusion of in-office tests is reasonable due to the fact the tests are by definition “cleared by FDA for home use, negligible likelihood of erroneous results, [and pose] no reasonable risk of harm if

performed incorrectly” and therefore with the training we propose should be included in scope, and  
2) By utilizing the MTS license for in-office testing by Licensed Acupuncturists public health and safety will be assured.

2. What do they intend to diagnose when doing the in-office tests?

**Answer:** The in-office tests will be used to confirm Asian medicine diagnoses for illnesses and conditions such as pregnancy, hematocrit, blood glucose, cholesterol, UTI, to name a few. In Asian medicine a practitioner commonly treats a patient with a combination of methods (acupuncture, body work, dietary modifications, supplements). The in-office testing will provide the practitioner with rapid test results to help direct treatment and the referral to a primary care provider.

3. The way the proposed bill is drafted; in-office testing is added to the scope of practice of **all** acupuncturists/Asian medicine practitioners, not just those who “opt-in.”

1. You state in the applicant report that practitioners would “opt-in” by receiving a professional development class and MTS licensure, however there is no opt-in or professional development class required in the bill draft.

**Answer:** Current modalities listed in scope are not defined within RCW 18.06. We anticipate working with the DOH to clarify the details of “opting-in” in rules and defining this in WAC.

2. You also state all licensed acupuncturists would be grandfathered in for updates to the scope except for in-office testing; however this distinction is not made in the bill and it is unclear how it would be accomplished.

**Answer:** We anticipate this will be defined in WAC.

4. Will the professional development class be offered on a regular basis for new applicants to the profession?

**Answer:** We anticipate the class being offered at least twice a year initially.

5. It is unclear whether it is your intention to include drawing blood. This is a regulated activity requiring a license.

**Answer:** The drawing of blood through venipuncture is not included. The technique of bleeding is a traditional (historical and modern) technique very commonly utilized in clinical practice, whereby a drop or several drops of blood are bled from acupoints. The common term is a “finger stick,” however, the bleeding of points in Asian medicine is not limited to fingers.

6. Please address the apparent conflict between Asian Medicine being based on “experience, learning, and traditions originating in East Asia” and the use of modern, western testing.

**Answer:** Asian medicine is not a static system of medicine. It is a system of medicine with roots dating back 5,000 years or more, depending on the sources quoted, and encompasses historic and contemporary modalities and procedures. One of the differences between Asian medicine and Western medicine is the name or diagnosis that is given to a particular condition. An example is the Asian medical term “blood deficiency” and the Western correlation “anemia” or “hormone deficiency,” depending on the particulars of the case. In the example of “blood deficiency/anemia,” a modern in-office diagnostic technique is the hematocrit, which provides an accurate objective clinical finding, which can then be used to confirm diagnosis and direct treatment, whether in Asian or Western based systems of medicine.

## **Other Modalities**

1. Why were lancets added in Section 1.2(a)? What is the intended purpose for lancets? These are defined as surgical instruments used to make small incisions.



**Answer:** The practice of bleeding acupuncture points with lancets is usual and customary to the practice of Asian medicine and is part of the basic requirements of the NCCAOM acupuncture with point location modules content outline. The technique for bleeding a point is the same as a finger stick. Historically the bleeding of points was done with crude instruments/needles; as technology has progressed the practice has also progressed to include lancets. Lancets are commonly sold over the counter without restrictions, i.e., no prescription is needed.

2. Why is heat and cold listed as a separate modality when it is already a part of some of the other modalities? What are they doing with the heat and cold in this separate modality?

**Answer:** The inclusion of heat and cold is to specifically add commonly used modalities that we are trained and tested on by the NCCAOM exam. (See Attachment 2.) Specifically listing heat and cold has the effect of including them as distinct modalities instead of as vague inclusions as part of a current modality such as infra-red. The list of heat and cold includes: a) Heating lamps, b) Hydrocollator packs, c) Microwave heat pads, d) Chemical heat pads, e) Herbal heating pads, f) Spray and stretch (vapor coolant), g) Ice packs, h) Hot compresses, i) Cold compresses. We anticipate clarifying this list in rules. This list is in addition to what is in the current scope of RCW 18.06.

3. Please clarify why massage is listed as a separate modality in addition to tui na.

**Answer:** Asian massage encompasses many modalities and includes multiple terms from different languages, such as Tui na. We do not want to exclude other terms in other Asian languages that are terms for this type of treatment. We have reached an agreement with the massage therapists to use the term “Asian massage” and we are happy to do so as this term appropriately represents the training and testing we receive.

### **Additional Questions**

- (4)(a) in the application states there is a potential risk to the public health without the proposed standards because patients would seek unregulated medical treatments by unlicensed practitioners. Is there any data to support this statement? Is this happening now and are patients being harmed?

**Answer:** Question (4)(a) is specific to the creation of a new profession. Therefore, the answer is focused on the need for regulation in general and the presumption that those who are not well trained could cause harm. The “potential risk” we address refers to the new modalities being added. When the modalities are added to the scope of practice, the DOH can define and regulate them, thereby reducing risk and increasing public safety. We do not know of any cases of licensed acupuncturists causing harm by practicing unregulated techniques, but public health and safety is enhanced if practitioners are held to standards of practice of regulated and allowed techniques.

- (4), 3rd paragraph, in the application states that licensed acupuncturists are experts in three areas. Is there any data to support this statement?

**Answer:** The in-depth training licensed acupuncturists receive, in most cases a minimum of three and one-half years, focuses on treating acute and chronic conditions and preventative medicine. By training, licensed acupuncturists are well familiar with (a minimum of) two systems of medicine, primarily Asian and Western. The nature of Asian medicine focuses on prevention and treatment of acute and chronic conditions. Common to all three of these cases is the use of nutrition and health education, including lifestyle advice. Both the National Institutes of Health (<http://nccam.nih.gov>) and the Centers for Disease Control (<http://www.cdc.gov>) have a dearth of information on the role of acupuncture and Asian medicine in public health. Therefore, given the level of training and licensing requirements we feel that licensed acupuncturists are experts in these areas.

4. (4)(c)(ii) in the application provides for grandfathering all current acupuncturists. What if a current practitioner is not qualified, trained, or experienced in the new modalities?

**Answer:** Just as with the existing scope, if a current acupuncturist is not qualified, trained, experienced in a modality, or even has a personal reason for not performing a modality, they are not required to do so. RCW 18.130.180, the Uniform Disciplinary Act, specifically addresses that licensed acupuncturists meet an accepted standard of care that does not result in the harm of patients. This bill will allow an expanded scope for licensed acupuncturists to perform those modalities for which they are trained or experienced in. This is consistent with our current regulations. As a profession licensed acupuncturists have an excellent safety record and we do not anticipate this record to change. We estimate that most licensed acupuncturists have the training to include the majority of the proposed modalities with the exception of the in-office testing of blood and body fluids. However, the profession does have a number of practitioners who are dual licensed or have previous medical training.

5. The proposed changes in the scope of practice appear to actually create a new profession. Because of the requirements in the draft bill, sec. 1.7, what happens if a new acupuncturist doesn't want to do anything more than the current scope of practice?

**Answer:** With regard to the proposed changes appearing to create a new profession, new section 1.3 in the bill draft clearly states legislative intent to recognize that licensed acupuncturists currently practice a system of medicine, and to reflect this "the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine." (Ref. Bill draft S-3257.2/09 2<sup>nd</sup> draft, new section, 1.3) This change in title and the added modalities do not create a new profession, they clarify and expand upon what already exists within our statute. The change in title reflects the legislative intent. There is no requirement in RCW 18.06 that requires a practitioner to utilize all of either the existing or new modalities listed. Just as licensed acupuncturists tailor each treatment to the individual patient's needs, so too the practitioner can choose which modalities he or she will use. The legislation provides an expanded scope thereby increasing treatment options by the practitioner for the patient, resulting in improved health outcomes for the patients.

6. Section 1.5 of the proposed bill bars anyone else from practicing Asian medicine. As Asian medicine is defined in the bill with the expanded scope of practice, would this infringe on the scopes of practice for any other professions? (The only exemption provided in the proposed bill is for those selling herbal products.)

**Answer:** This bill would not infringe on other professions. Section 1.6 of the bill states explicitly that the bill does not prohibit or restrict any credentialed individual from performing services within that individual's scope of practice.

7. (5)(b) in the application states that there are no similar professions that have training in acupuncture or Oriental/Asian medicine that should be included or excluded. Aren't there several professions that include many of the current and proposed treatment modalities in their scope of practice?

**Answer:** There are some modalities that are common to other health care professions and shared with those professions. An example is massage therapy. That modality is found within the scope of practice of massage practitioners (18.108 RCW), physical therapists (RCW 18.74.010(8)), chiropractors (RCW 18.25.005), and naturopaths (RCW 18.36A020 and 040). Massage is a well documented modality for benefiting health so including it within the scope of practice of other trained health professionals who are trained in it, including licensed acupuncturists, will benefit the public health. There is no intent implied or stated in the bill that licensed acupuncturists utilizing a

“shared modality” will refer to them selves as anything other than a licensed acupuncturist/Asian medicine practitioner.

8. (2) in the application states that the current law lacks the techniques to allow licensed acupuncturists to comply with rules. Does this mean they are currently not complying with rules or statute? Doesn't this conflict with the statement that there are few complaints in this profession because if practitioners were not in compliance, there would likely be more complaints?

**Answer:** This statement was poorly worded on our part. Current law has been adequate to allow licensed acupuncturists to comply with the rules. The proposed techniques would give licensed acupuncturists additional tools that would greatly benefit the public health. For example, the in-office testing techniques would provide the practitioner and patients nearly immediate results and would serve to help direct the current treatment plan or the need for referral to a primary care provider. Additionally, because the rapid results allow a face-to-face consultation at the time of the appointment it provides incentive for the patient to comply with the treatment plan.

9. The application refers to dietary therapy, a term that is not defined or referenced in the proposed bill. How does this match up with “dietary advice”?

**Answer:** Dietary advice and dietary therapy can be used interchangeably. In the bill language we have used dietary advice.

Attachment 1

**NCCAOM  
FOUNDATIONS OF ORIENTAL MEDICINE MODULE  
CONTENT OUTLINE**

**A. Questioning (6% of total exam)**

*(Collect relevant information from the patient)*

1. Chief Complaint/Current Problem
  - a. Identifying information (e.g., name, address, phone, age, gender, marital status, occupation)
  - b. Chief/secondary complaints (e.g., frequency, severity, symptoms, onset, duration, functional changes)
  - c. History, assessment, and treatment of the current condition
  - d. Patient's treatment goals
2. Medical and Family History
  - a. Medical history (e.g., previous diagnoses, illnesses, surgeries, hospitalizations, allergies, accidents)
  - b. Family medical history
  - c. Medications (e.g., prescription, over-the-counter, herbs, dose, term of use)
  - d. Neurological symptoms (e.g., neuropathies)
  - e. Social and personal relationships and life goals
  - f. Domestic violence, including sexual abuse
  - g. Patient boundaries and concerns about physical contact
  - h. Memory and cognitive processes
  - i. Factors that interfere with data gathering (e.g., drugs, food, drink)
3. Traditional Questions and Information Gathering
  - a. Sleep patterns
  - b. Breathing and respirations
  - c. Skin
  - d. Bowel movements, digestion, appetite, and thirst
  - e. Secretions and excretions (e.g., vomit, sputum)
  - f. Bleeding and bruising
  - g. Tastes (bitter, sour, etc.)
  - h. Nutritional levels and patterns (e.g., quantity of food consumed, food supplementation, regularity of eating)
  - i. Temperature (e.g., sensations of hot or cold, chills or fever)
  - j. Perspiration/sweating

- k. Pain
- l. Emotions
- m. Stressors
- n. Use of alcohol, tobacco, caffeine, and non-prescription drugs
- o. Exercise and physical activity
- p. Sexual activity
- q. Libido
- r. Birth-control methods
- s. Menstrual, gynecologic and obstetric history
- t. Male reproductive health
- u. Dizziness and tinnitus
- v. Palpitations or chest constriction
- w. Vision, hearing, and speech
- x. Edema

**B. Assessment (15% of total exam)**

*(Gather data by using the following diagnostic methods [i.e., look, listen, smell, touch) to treat health problems, promote healthy functioning, and/or enhance good health])*

1. Looking
  - a. General physical appearance
  - b. Face
  - c. Eyes
  - d. Tongue
  - e. Skin and complexion
  - f. Nails and hands
  - g. Hair
  - h. Ears
  - i. Spirit/Shen (e.g., expression and general behavior)
  - j. Body structure (e.g., constitution, weight, structural imbalance, individual body tissues)
  - k. Posture (e.g., center of gravity, imbalance between left and right, front and back)
  - l. Movement (e.g., gait, fluidity, range of motion)
  - m. Symptom site/local area of complaint (e.g., color, swelling, alignment, shape, location)
  - n. Secretions and excretions
  - o. Factors that interfere with data gathering (e.g., make-up, perfume, lighting)

2. Listening

- a. Sound/tone of voice, including volume and tonal qualities
- b. Abdominal sounds (e.g., physiological, sounds in response to the examination)
- c. Respiratory sounds (e.g., breathing and coughing, quantity and quality)
- d. Manner, pattern, theme, and content of speech
- e. Vomiting sounds
- f. Hiccups, belching
- g. Joint sounds

3. Smelling

- a. General odor of body (e.g., five odors, strong and weak)
- b. Secretions and discharges
- c. Mouth/breath odor
- d. Excretions

4. Touching (palpation)

- a. Abdomen
- b. Qualities and positions of radial pulse
- c. Comparison of regional pulse sites (e.g., carotid, radial, umbilical)
- d. Channels and points (including Ashi points)
- e. Shu/Mu points
- f. Changes in temperature, moisture, texture, sensitivity, tissue structure
- g. Ears
- h. Changes in nature of pain and numbness, with palpation
- i. Passive range of motion
- j. Nodules and tumors

**C. Analysis and Diagnosis  
(35% of total exam)**

*(Analyze/classify the information collected and establish an Oriental medical diagnosis by using traditional Oriental medical theories of physiology and pathology)*

- 1. Traditional Chinese Medicine
  - a. Five Phase/Element theory
  - b. Yin Yang theory
  - c. Channel theory
  - d. Eight Extraordinary Channels theory
  - e. Pathological Point findings (e.g., Kokatsu [Kori], Ashi)
  - f. Eight Parameters
  - g. Zang Fu theory
  - h. Essential substances (Blood, Qi, Fluid, Spirit, Essence)

- i. Internal, external, and miscellaneous causes of disease
- j. Six Stages
- k. Four Divisions/Levels (Wei, Qi, Ying, Xue)
- l. San Jiao (Triple Warmer)
- m. Differentiation of disease (Bian Bing)
- 2. Other Traditions (e.g., Japanese, Korean, Worsley)
  - a. Five Phase/Element theory
  - b. Yin Yang theory
  - c. Channel theory
  - d. Eight Extraordinary Channels theory
  - e. Pathological Point findings (e.g., Kokatsu [Kori], Ashi)
  - f. Twelve Officials theory
  - g. Zang Fu theory
  - h. Eight Parameters
  - i. Essential substances (Blood, Qi, Fluid, Spirit, Essence)
  - j. Internal, external, and miscellaneous causes of disease
  - k. Six Stages
  - l. Four Divisions/Levels (Wei, Qi, Ying, Xue)
  - m. San Jiao (Triple Warmer)
  - n. Sho/Confirmation

**D. Oriental Medicine Treatment, Planning, Principles, and Strategies  
(39% of total exam)**

- 1. Formulate Treatment Principles  
*(Appropriate to the individual based on the diagnosis or evaluation by applying traditional Oriental medical theories)*
- 2. Select Treatment Strategies  
*(Appropriate to the individual based on the diagnosis or evaluation by applying traditional Oriental medical theories)*
- 3. Educate Patient
  - a. Basic Oriental medicine dietary principles
  - b. Basic nutritional principles
  - c. Pre-treatment orientation
  - d. Follow-up instructions
  - e. Basic instructions/training references
  - f. Basic stretching, movement, and exercise principles and techniques
  - g. Basic breathing and relaxation principles and techniques
  - h. Self-treatment techniques
  - i. Lifestyle implications and considerations
  - j. Body mechanics
  - k. Ergonomics
  - l. Meditation

- m. Qi Gong (i.e., explain benefits)
- n. Integration of Oriental medical theory and modern lifestyles
- o. The healing process
- p. Evaluating change
- 4. Treat Patient Using Bodywork Techniques
  - a. Acupressure
  - b. Shiatsu
  - c. Tuina

**E. Professional and Safety Issues  
(5% of total exam)**

*(Comply with all professional and ethical standards and professional codes of ethics that apply to practice)*

1. Professional Issues

- a. Follow ethical standards (e.g., NCCAOM Code of Ethics)
- b. Maintain appropriate recordkeeping practices
- c. Observe established practice management procedures
- d. Maintain confidentiality
- e. Obtain informed consent
- f. Maintain certifications (e.g., NCCAOM, CPR)
- 2. Safety Issues
  - a. Ensure equipment maintenance and safety
  - b. Identify and implement infection control precautions (e.g., universal precautions)

## Attachment 2

### **NCCAOM ACUPUNCTURE WITH POINT LOCATION MODULE CONTENT OUTLINE**

#### **A. Diagnostic Techniques and Treatment and Planning (33% of total exam)**

1. Ear Diagnosis
2. Appropriate Treatment Theories
  - a. Tonification, supplementation, reinforcement, dispersion/sedation/drainage
  - b. Yin Yang theory
  - c. Channels (Meridians)
  - d. Sheng (Generation) and Ke (Control) cycles
  - e. Four Needle concept
  - f. Mu and Shu
  - g. Causative factor
  - h. Eight Extraordinary Channel theory
  - i. Six Division theory
3. Points and Sets of Points
  - a. Five Phase/Element points (Control points)
  - b. Antique points (Jing Well, Ying, Spring, etc.)
  - c. Mu (Alarm) and Shu (Associated) points
  - d. Confluent points of the Eight Extra Channels (Meridians)
  - e. Sheng (Generation) and Ke (Control) cycles
  - f. Meeting points/Hui/Influential
  - g. Entry and Exit points
  - h. Window of the Sky points
  - i. Four Needle technique
  - j. Xi-Cleft points
  - k. Yuan (Source) and Luo (Connecting) points
  - l. Aggressive energy treatment
  - m. Extra points
  - n. Trigger or Motor points
  - o. Ashi points
  - p. Dong's (Tong's), Tan's (12X12) points, or Naso/Muno points/regions
  - q. 12 Channel points (primary channel points)
4. Microsystem Points
  - a. Ear points (Nogier, Chinese, NADA)
  - b. Scalp points (Chinese and YNSA)
  - c. Foot points

- d. Wrist/Ankle points

#### **B. Treatment (33% of total exam)**

1. Identify Treatment Techniques or Modes of Administration
  - a. Identify correct point location (e.g., anatomical, proportional)
  - b. Positioning of patient
  - c. Consider anatomy to determine depth, precautions, and contraindications
  - d. Consider precautions related to treatment (e.g., intradermal needles, moxibustion, electricity, guasha, bleeding)
2. Treat Patient
  - a. Acupuncture (inserting needles)
  - b. Cups
  - c. Ear balls/seeds/pellets
  - d. Nutritional supplements
3. Apply Moxibustion
  - a. Direct moxa (e.g., Chinese, nonscarring)
  - b. Indirect moxa (e.g., stick or pole moxa)
4. Apply Heat/Cold
  - a. Heating lamps
  - b. Hydrocollator packs
  - c. Microwave heat pads
  - d. Chemical heat pads
  - e. Herbal heating pads
  - f. Spray and stretch (vapor coolant)
  - g. Ice packs
  - h. Hot compresses
  - i. Cold compresses
  - j. Other methods
5. Electroacupuncture
6. Manage Emergency Situations
  - a. Fainting
  - b. Broken needle
  - c. Stuck needle
  - d. Organ puncture (e.g., pneumothorax)
  - e. Burns
  - f. Bleeding
  - g. Cardiac or respiratory arrest
  - h. Other situations
7. Ensure Clean Needle Technique

**C. Treatment Evaluation (14% of total exam)**

1. Evaluate the Results of Treatment  
*(By comparing the client's/patient's condition with prior assessment(s) in order to continue, modify, or terminate treatment)*
2. Make Appropriate Modifications and Recommendations  
*(Based on results of the evaluation in order to further*

*promote/restore/maintain the client's/patient's health)*

3. Consult with Patient on Additional Areas of Concern

**D. Point Location (20% of total exam) (images)**



### Attachment 3

## **NCCAOM BIOMEDICINE MODULE CONTENT OUTLINE**

### **A. Questioning (20% of total exam)**

*(Collect relevant information from the patient)*

1. Chief Complaint/Current Problem
  - a. Current biomedical diagnosis
  - b. History, assessment, and treatment of the current condition
2. Medical and Family History
  - a. Medical history (e.g., previous diagnoses, illnesses, surgeries, hospitalizations, allergies, accidents)
  - b. Family medical history
  - c. Medications (e.g., prescription, over-the-counter, herbs, dose, term of use)
  - d. Neurological symptoms (e.g., neuropathies)
3. Traditional Questions and Information Gathering
  - a. Sleep patterns
  - b. Breathing and respirations
  - c. Skin
  - d. Bowel movements, digestion, appetite, and thirst
  - e. Secretions and excretions (e.g., vomit, sputum)
  - f. Bleeding and bruising
  - g. Tastes (bitter, sour, etc.)
  - h. Nutritional levels and patterns (e.g., quantity of food consumed, food supplementation, regularity of eating)
  - i. Temperature (e.g., sensations of hot or cold, chills or fever)
  - j. Perspiration/sweating
  - k. Pain
  - l. Emotions
  - m. Stressors
  - n. Use of alcohol, tobacco, caffeine, and non-prescription drugs
  - o. Exercise and physical activity
  - p. Sexual activity
  - q. Libido
  - r. Birth-control methods
  - s. Menstrual, gynecologic and

obstetric history

t. Male reproductive health

u. Dizziness and tinnitus

v. Palpitations or chest constriction

w. Vision, hearing, and speech

x. Edema

### **B. Western Medical Assessment (60% of total exam)**

*(Consider the results of the following diagnostic evaluations, as well as knowledge of anatomy, physiology, and pathology, to help assess the patient's health status, communicate effectively with other members of the health care team, and make referrals as indicated)*

1. Western Medical Assessment
  - a. Consider results of Western physical examinations
  - b. Ask patient about selfexaminations (e.g., breast, testicular)
  - c. Measure range of motion
  - d. Consider results of orthopedic and neurological tests
  - e. Consider results of laboratory tests (e.g., blood, stool, urine, Pap smear)
  - f. Consider results of imaging tests (e.g., MRI, x-ray, CT scan, colonoscopy)

### **C. Legal, Professional, and Safety Issues (20% of total exam)**

*(Comply with all professional and ethical standards and professional codes of ethics that apply to practice)*

1. Legal Issues *(Follow local/state/federal laws/rules, regulations and statutes)*
  - a. OSHA
  - b. Reporting requirements (e.g., abuse, disease transmission)
  - c. Biohazard management
  - d. Fire
  - e. Licensure
2. Professional Issues

- a. Maintain professional hygiene
  - b. Use ICD codes/insurance
  - c. Educate patient regarding appropriate referral to medical and social institutions
- 3. Safety (*Identify, manage, and take appropriate actions to emergency situations*)
  - a. Fainting
  - b. Burns
  - c. Bleeding
  - d. Cardiac or respiratory arrest (performing CPR)
  - e. Anaphylaxis
  - f. Other situations

## Attachment 3A

### **NCCAOM Candidate Study Guide for the Biomedicine Module**

Due to the breadth of information in the field of biomedicine, this guide is intended to assist candidates in preparing for the Biomedicine Module by narrowing the focus of study. The module assesses recognition of common biomedical clinical concepts and terms, including disease categories, and the ability to communicate effectively with other health care practitioners. This does not involve diagnosing a patient, rather it involves recognizing western disease pathology and knowing when and for what conditions an Oriental medicine practitioner should refer to a Western medicine practitioner.

**Questioning the Patient:** Chief Complaint, Current Problem, Medical and Family History, Traditional Questioning, and Information Gathering

1. Recognize signs and symptoms of acute illnesses (e.g., appendicitis, deep vein thrombosis, myocardial infarction, etc.) and chronic illnesses (e.g., hypothyroidism, diabetes mellitus, peripheral vascular disease, etc.) that require a referral to a Western medical practitioner.
2. Understand basic human anatomy and physiology relevant to acute and common illnesses (e.g., cardiovascular, respiratory, gastrointestinal, genitourinary, integument, musculoskeletal, endocrine, and neurological, etc.).
3. Recognize risk factors for acute and chronic illnesses (e.g., obesity, smoking, family history, etc.).
4. Understand the appropriate management of chronic illnesses (e.g., diet and lifestyle modification, regular screening for complications of the disease, regular visits with appropriate western medical practitioner, etc.).
5. Understand the potential disease consequences of chronic alcohol, tobacco, caffeine, and non-prescription drug use.

#### **Medications**

1. Pharmaceutical Categories (e.g., analgesics, antihypertensives, antidepressants, antibiotics, antihistamines, anti-inflammatories, anticoagulants, antipyretics, sedatives, diuretics, hypoglycemics, bronchodilators, corticosteroids, decongestants, etc.):

- Understand the indications for use.
- Understand the contraindications.
- Understand the consequences of pharmacological intervention (side effects).

2. Most commonly used over-the-counter and prescription medications (e.g., Furosemide □, Aspirin, Lipitor □, Ativan □, Prozac □, Singulair □, Glucophage □, Vasotec □, Cipro □, Plavix □, etc.):

- Understand the indications for use.
- Understand the contraindications.
- Understand the consequences of pharmacological intervention (side effects).

#### **Western Physical Exam**

1. Recognize abnormal findings from physical exam inspection and palpation that require referral to a Western medical practitioner (e.g., jaundice, skin lesions, edema, tremor, abdominal rebound tenderness, peripheral neuropathy, nuchal rigidity, etc.)
2. Understand the relevant anatomy and physiology causing the abnormal physical exam findings (e.g., hepatobiliary system causing jaundice, endocrine system causing diabetic peripheral neuropathy, neurological system causing tremor, etc.).

#### **Self-Examinations**

1. Understand purpose of regular breast and testicular self-examinations (e.g., abnormal findings, age to begin exams, frequency of performing exams, etc.).

#### **Range of Motion**

1. Recognize normal range of motion.
2. Understand the methods of measuring range of motion.
3. Recognize diseases processes associated with abnormal range of motion (e.g., degenerative joint disease, autoimmune disease, trauma, etc.).

#### **Orthopedic and Neurological Tests**

1. Understand the physical exam maneuvers used to assess for orthopedic and neurological impairment (e.g., Phalen's

test, Anterior Drawer Test, McMurray Test, etc.).

2. Understand the orthopedic and neurological implications of abnormal results of physical exam maneuvers (e.g., Phalen's test for carpal tunnel syndrome, Anterior Drawer Test for Anterior Cruciate Ligament injury, etc.).
3. Recognize the level of impairment based on physical exam findings (e.g., peripheral nerve, spinal cord, spinal nerve root, etc.).
4. Understand the evaluation of reflexes (e.g., normal, hyperreflexia, hyporeflexia) and recognize the level of impairment based on reflex findings (e.g., peripheral nerve, spinal cord, spinal nerve root, etc.).
5. Understand the evaluation of cranial nerves.

### **Western Laboratory Tests**

1. Understand the terminology associated with elevated or decreased laboratory values (e.g., anemia, thrombocytopenia, neutropenia, etc.).
2. Understand the clinical significance of abnormal values (e.g., bleeding risk, infection risk, risk of thrombosis, etc.).  
Note: candidates are not responsible for memorizing the range of normal values for the laboratory tests.
3. Candidates are only responsible for the laboratory tests listed below:
  - a. Blood:
    - Complete Blood Count (red blood cell count, hemoglobin, hematocrit, platelet count, white blood cell count, white blood cell differential).
    - Basic metabolic panel (sodium, potassium, chloride, carbon dioxide, blood urea nitrogen (BUN), creatinine, glucose).
    - Lipid panel (total cholesterol, LDL, HDL, triglycerides).
    - Hepatic function panel (AST, ALT, bilirubin, alkaline phosphatase).
    - Thyroid panel (TSH, T3, T4).
  - b. Urine:
    - Basic urinalysis to include dipstick chemistry (pH, specific gravity, protein, glucose, ketones, nitrites, leukocytes, blood, urobilinogen) and microscopic analysis.
  - c. Stool (fecal fat, ova and parasites, bacteria).

### **Imaging Tests**

1. Understand test names and uses (e.g., colonoscopy, cystoscopy, bronchoscopy, etc.).
2. Understand what can be diagnosed with each test (e.g., colonoscopy: diseases of the colon, cystoscopy: diseases of the bladder, bronchoscopy: diseases of the respiratory tract).
3. Understand which imaging tests are used in routine health screening (e.g., mammogram, colonoscopy, dual-energy x-ray absorptiometry (DEXA), etc.).
4. Understand which imaging tests are used in the initial evaluation of common illnesses (e.g., echocardiography, ultrasound, radiography, etc.).

### **Legal, Professional, and Safety Issues**

1. Understand application of mandatory federal, state, and local laws relating to practice as a healthcare professional.
  - Reporting requirements (e.g., abuse, sexually transmitted diseases, etc.).
  - Medical decision making (e.g., informed consent, power of attorney, etc.).
  - OSHA regulations.
2. Understand the appropriate use of referrals to medical and social institutions and the correct time frame for such referrals.
3. Understand the appropriate management of blood borne and surface pathogens.
4. Understand the appropriate management of emergency situations:
  - Cardiac arrest- performing Cardiopulmonary Resuscitation (CPR).
  - Burns.
  - Anaphylaxis.
  - Bleeding.
  - Fainting.
5. Understand the rules relating to licensure.
6. Understand the definition of ICD codes.

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## **Appendix D: Public Hearing Summary and Participant List**

### **Acupuncture Sunrise Public Hearing Summary July 30, 2009**

Kristi Weeks opened the hearing. Ms. Weeks is the director of Policy and Legislation in the Health Systems Quality Assurance Division of the Department of Health. She introduced the panel members and other staff:

- Dianna Staley and Meghan Young from the Health Systems Quality Assurance Division, panel members.
- Luisa Parada, from the Community and Family Health Division (replacing our public panel member who had a last minute conflict).
- Jason Hoeft, staff attorney.
- Sherry Thomas, Health Systems Quality Assurance Division, coordinator of the sunrise process.

Kristi explained how the hearing will work and asked participants to focus on the statutory criteria when presenting or testifying. She included an explanation of the panel and that the draft report should go to the Secretary of Health in October. She also explained there is an additional 10-day comment period beginning today through August 9 at 5:00 pm for stakeholders to comment on anything they feel has not been addressed or to follow up from the hearing.

#### **Lisa vanHaagen, Sunrise Applicant**

My name is Lisa vanHaagen. I am a licensed acupuncturist and licensed massage therapist in Washington. I am here representing WAOMA, which has over 200 members. I would like to begin by thanking the Department of Health for all of their assistance during this process.

(Ms. vanHaagen used a PowerPoint presentation.)

I was told the panel members may not be very familiar with acupuncture, so I will give a brief history of the RCW. In the 1970's physician assistant acupuncturists were allowed to practice acupuncture within their scope of practice. We recently had a birthday. On July 28, 1985, the profession began under RCW 18.06, certified acupuncturists. There was a September 1993 sunrise review to change the title from certified to licensed acupuncturists.

Although the type of licensure has changed, the scope of practice has not been updated in 24 years. Licensed acupuncturists play an important role in health care for the citizens of Washington state. Most licensed acupuncturists are continuing to see their practices grow even in the recent downturn of the economy. I think this is a testimony to the effectiveness and affordability of this medicine. The modalities and techniques in RCW 18.06, as I said, have not been updated since 1985. The current scope of practice does not reflect current standards of practice, advances in science and technology, or education and testing standards of the profession. We could continue to practice as we have for the past 24 years, but the health of the citizens of our state could be that much better by utilizing the requested seven modalities and techniques.

In our current statute, the term acupuncture is used to refer to both the system of medicine and the modality or technique. Acupuncture referring to a system of medicine is synonymous with oriental and Asian medicine. In the following list of modalities in our current scope, I've added commonly accepted definitions of these modalities that are not defined in statute or WAC.

Acupuncture is a health care system based on an Oriental system of medical theory utilizing Oriental diagnosis and treatment to promote and treat organic and functional disorders by treating specific

acupuncture points and meridians. Acupuncture includes the following techniques in the current definition:

- Use of acupuncture needles to stimulate acupuncture points and meridians.
- Use of electrical, mechanical, or magnetic devices to stimulate points and meridians, and where you see parentheses, they are definitions I put in because once again, we don't have definitions in our statute.
- Moxibustion, which is heat applied directly or indirectly to the body.
- Acupressure, which is soft tissue manipulation of the acupuncture or ashi points, which literally means "that's it."
- Cupping, which is the application of suction cups, the use of which is determined by tongue and pulse diagnosis.

It's very, very important to realize not all patients will be treated with all of the techniques you see. There are times when it is appropriate and times when it is not. It's very important to make sure we have a diagnosis before we treat the patient.

Our current scope also includes:

- Dermal friction technique which is a direct contact with the patient's body either by direct touch or tools. Historically those tools were made from bone or porcelain. Today it might be plastic or other materials.
- Infrared which is frequency specific.
- Sonopuncture, which is the use of direct and indirect sounds that affect the body's meridians. You might be asking what this is. Actually, a good way to explain this would be to use tuning forks. They are actually applied to or near the body to affect meridians.
- Laserpuncture, the use of direct and indirect lasers to affect the body's meridians.
- Point injection therapy or aquapuncture, which is the injection of liquid substances into the body to affect the meridians and acupoints.
- Dietary advice based on Oriental medical theory provided in conjunction with the techniques under (a) through (j) of the subsection, utilized with everything above.

The definition of the term acupuncturist means a person licensed under this chapter.

Education. Licensed acupuncturists must complete a rigorous course of study that is approximately three and a half years in length, and a minimum of approximately 1,700 hours. Most schools average around 2,400 hours for the Masters of Science in Acupuncture, which is also known as an MSA program.

Approved programs include:

- Acupuncture school.
- Acupuncture program.
- Acupuncture apprenticeship or acupuncture tutorial instruction.

It is my understanding that the apprenticeship may be being phased out. I'm not sure. We have courses in Western sciences which include anatomy, physiology, biochemistry, pathology, survey of Western clinical sciences, hygiene and CPR. Survey of Western clinical sciences is where we do a lot of the hands-on techniques as far as height, weight, blood pressure, etc. We also have acupuncture sciences, which includes fundamentals of acupuncture, acupuncture diagnosis, acupuncture pathology, acupuncture therapeutics, acupuncture points and meridians, and acupuncture techniques, including electroacupuncture, which is where a low current electrical device is used for stimulation. That is approximately 750 hours, and the clinical training is usually a minimum of 500 hours of supervised clinical training consisting of up to 100 hours of observation.

Graduation from a Washington approved program is necessary to take the NCCAOM exam, which is also the state exam for Washington, as you are probably aware. NCCAOM is the National Certification Commission for Acupuncture and Oriental Medicine. In WAC, it still lists the old acronym, I believe

NCCOM, which is why this looks a little different. NCCAOM requires a written exam, a point location exam, and an NCCAOM approved clean needle technique course. Are you familiar with this? We have to prove we can keep a clean field, that we aren't touching the needles, that we aren't taking a used needle and taking it over a clean field. A clean field is where the clean needles are kept. We have things appropriately laid out. The NCCAOM now has more stringent testing requirements that do not reflect the current WAC. There is also a third exam starting in about six months, which is the NCCAOM biomedical module exam. If you go to the responses packet, you will find attachments one, two, and three are outline for the module exams, and attachment 3A is the biomedicine study guide.

In our proposed new scope, there is a new intent section, and I would like to read it so I can point out a couple of things showing why we feel it is important.

A new section is added to Chapter 18.06 RCW to read as follows:

The legislature intends to recognize that acupuncturists licensed by the state of Washington engage in a system of medicine of medicine to promote wellness and to prevent, diagnose, and treat disease, drawing upon the experience, learning, and traditions originating in East Asia which require more than just acupuncture alone. To reflect this reality, the legislature intends to change the state's professional designation of acupuncturists to Asian medicine practitioners and to incorporate current statutory provisions governing acupuncture while recognizing treatments, methods, and techniques used in Asian medicine. The legislature does not intend to require persons licensed under this act to change the business name of their practice if otherwise in compliance with this act.

If you recall back to earlier, with our current scope, both the system of medicine and treating with a needle are called acupuncture. What we are proposing will make a clear delineation that acupuncture is a technique and that the system of medicine we practice is not acupuncture. The proposed techniques include breathing, relaxation, and exercise techniques. These are techniques of breathing, visualization and movement therapy, where the practitioner directs the patient in the use of these techniques to improve and maintain health and achieve physical and mental relaxation and strengthening. I am going to repeat what I said earlier. In all patients we make an OM diagnosis, Oriental or Asian medicine diagnosis. Any of the techniques we use are always based on that diagnosis. It is very patient and situation specific.

- Qi gong, a form of Chinese exercise stimulation therapy that includes techniques of breathing, visualization and movement., is based on the theories of Asian medicine, Yin Yang, and the five elements. Qi gong can be divided into external qi gong in which the practitioner encourages and directs the free flow of qi, the body's energy, for the patient; and internal qi gong where the practitioner teaches the techniques to the patient for use at home or away from the office.
- Also we are proposing health education, which would be health education directed at the patient that attempts to improve, maintain, and promote health.
- In-office testing of temperature, blood pressure, auscultation (which is listening to heart, lung, valve tones, etc.), weight, body fat, urine, saliva, stool, and blood to assist the practitioner in determining the need for referral to a primary care physician and to assist in treatment. Simple in-office testing of these body fluids for pregnancy, ovulation, urine and stick analysis, blood, cholesterol, blood glucose, and others by CLIA-waived testing. These are simple in office tests and as I mentioned earlier, as far as the hands-on of temperature, blood pressure, auscultation, they are taught in the western sciences courses. The Department of Health has a wonderful Web site that talks about the CLIA-waived tests that is full of good information.
- Massage, which we are now changing to "Asian massage," is the manipulation of the soft tissues of the body for the purpose of normalizing those tissues and to assist in manual techniques that include applying fixed or moveable pressure, holding or causing movement of or to the body.
- Tui na, which is a therapeutic form of manual therapy body work that originated in China. The application of various tui na techniques is based on the theories of Chinese medicine, yin yang, the five elements, and the meridian view of the body. The goal is to encourage the free flow of qi, the body's energy. The object is to treat acute conditions as well as constitutional disharmonies. Tui na techniques include, but are not limited to, massage, acupoint stimulation, and forceful maneuvers including pushing, rolling, kneading, rubbing, and grasping of bones, viscera, and soft tissue.

I mentioned we are now going to be calling massage Asian massage. We will probably be putting in an amendment for the bill. We got some feedback from the massage therapists and they would be more comfortable with Asian massage than just massage, and we agree with them.

- Heat and cold therapies, which are direct and indirect application of heat and cold to the body.
- Recommendations and dispensing of herbs, vitamins, minerals, and dietary and nutritional supplements, recommendations and dispensing based on the practitioner's diagnosis of the patient.

I have some information on in-office testing. The Office of Laboratory Quality Assurance's mission is to ensure the public receives accurate, reliable, clinical laboratory services and test results by monitoring and evaluating test sites with minimum standards of quality assurance for clinical laboratory testing. The tests we are proposing are CLIA waived. The reality is that a hospital has very different needs than a clinic, solo practitioner, or small clinic. What is interesting to me is that when the federal program decided states could oversee their own testing sites, Washington state was the first state in the country to be approved. CLIA waived tests are by definition simple lab examinations or procedures cleared by FDA for home use with a negligible likelihood of erroneous results and no reasonable risk for performing incorrectly. Practitioners would opt-in by completing a professional development class that would cover these in-office tests. The reason that is there is because currently schools are not teaching it. My hunch is that one of the reasons they aren't teaching it is because it's not in the scope of practice. Currently, many continuing education seminars that are approved by the NCCAOM, our licensing exam, discuss results and CLIA waived tests. There is also a list in the original packet we submitted of all the different states. Many states have a much broader expanded scope in excess of what we are proposing in this sunrise review in terms of both modalities and medical testing. Once again, these tests are simple to use and do not include venipuncture or drawing of blood. We have a technique in Asian medicine called bleeding where we pick a point to release heat. We could use that drop of blood to check cholesterol or blood glucose. It's not a technique that is foreign to us and we do it commonly. Bleeding points is absolutely a very strong part of this. Most of the requested techniques are taught in schools and tested for by the national licensing exam. You will find in the back of our responses attachments one, two, and three, which talks about testing. The CLIA waived tests do not pose a hazard to patients or the practitioner. Also, the complaint rate for acupuncturists is very, very low. In 2007/2008 for instance, for acupuncturists there were five disciplinary actions. For all professions, there were 1,199. In that 2007/2008, there were 16 complaints received. Of all the other professions, there were 7,006. The number of complaints closed without investigation was two. Looking at all professions, there were 2,839. The number of acupuncturist complaints closed after investigation was eight. The total for all professions was 2,177. We have a very, very low complaint record but also a low disciplinary action. I think in part it is because of our colleagues. I think we are caring, thoughtful people and very, very competent. We bridge between two systems of medicine. We deal with Western medicine. Many of us are Westerners and have grown up using Western medicine. Our patients are mostly westerners. Also, we do a lot of referring back and forth with western medical providers. At the same time, we specialize; in fact I would say we are experts, in Asian medicine. Based on the disciplinary complaint rate of acupuncture, I would guess they will remain very low. Most important, acupuncturists are also working for a safer and healthier Washington.

## Questions from Panel

**Meghan Young:** In the education portion it does not talk about massage and you want to add massage to the scope of practice. What type of education do you have and does it have as many hours as massage practitioners? How does it compare?

**Applicant's Response:** Currently, my recollection is that the total massage program is 541 hours, including coursework. I don't recall what the breakdown is for clinical hands on training. With the definition of massage, we are suggesting Asian massage and tui na, and there is also a suggestion to add shiatsu. It is another form of Asian bodywork. We receive many hours of training. I will get back to you



on this. In the response section of the proposal, if you turn to attachment B you will see it is 39% of the exam. Also attachment F is stretching, etc., and attachment 4 is acupressure, shiatsu, and tui na.

**Kristi Weeks:** Do you anticipate practitioners using massage for wellness also, or only in conjunction with treatment?

**Applicant's Response:** We will not refer to ourselves as massage practitioners unless we are dual licensed, but it may be included for wellness. We like the term massage because the public is more familiar and comfortable with that term than they are with tui na.

**Dianna Staley:** We currently use the term licensed acupuncturist, but that would go away and you won't be able to use it with this proposal?

**Applicant's Response:** Yes. That's true.

**Dianna Staley:** Are there schools that won't qualify with this new scope?

**Applicant's Response:** I know of one situation, a tutorial or apprenticeship program that may not.

Derek Kirkham, member of WAOMA, helped answer some of these questions.

**Luisa Parada:** Regarding in-office pregnancy tests, wouldn't you refer them to a doctor who would then do the same test, so they would have to pay double?

**Applicant's Response:** I don't know. The in-office tests are extremely reliable and affordable. You can test a drop of blood for \$10. It's always better to err on the side of caution. I don't know if insurance would pay. There are CPT codes for these tests but I don't know. The charge for an office call for an acupuncturist is usually way less than for other providers.

**Meghan:** Don't you think the title change will be confusing?

**Applicant's Response:** There is brand-name recognition. As a profession, we will have to deal with it. We as practitioners will have to deal with things like Yellow Book with nationwide categories. There are pros and cons for the title change, but the pros of benefits to patients outweigh the cons. Also, to clarify from earlier, we cannot refer to ourselves as licensed acupuncturists in this proposal, but can still use acupuncturist.

**Luisa Parada and Dianna:** Both tried to clear up the issue of acupuncture being a component of Asian medicine.

**Applicant Response:** It is confusing to people that acupuncture is just a modality. Historically acupuncture has been used to treat pain, so the public is surprised that we treat more than pain. It will benefit the public because they will realize this is a system of medicine.

**Jason Hoeft:** Regarding the process of sitting the examination, there are four or five different modules, but only three are required in Washington. I've heard there are a biomedicine module and an herbology module which are not currently required. When you sit the exam, are you tested for all portions, or only on the ones required for that particular state?

**Applicant Response:** They are not currently required but we are anticipating in 2010 for them to be added.

**Jason:** You state that acupuncturists are cheaper than primary care doctors. Will you offer pregnancy diagnosis?

**Applicant Response:** There are points on the abdomen and lower back corresponding to the uterus, as well as points distally (meridians). A lot of us can detect pregnancy by the pulse. I would rather be 99% sure of pregnancy. Acupuncture can possibly disrupt pregnancy by interrupting the qi, so I would rather be sure.

**Jason:** Do you think tests will make the diagnosis more like Western?

**Applicant Response:** We have different ways of describing the physical body. It is the same body but we use different words. Cholesterol is cholesterol, but in Asian medicine we refer to it differently. This increases compliance because the patients can see that treatment is helping. Right now I work within my scope to lower a patient's cholesterol, but I have to follow up with a doctor to check test results. If I stay with them they stay motivated. It's a way for us to see if things are working.

Also, I would like to clarify that it is never our duty to alter a prescription. We refer back to a primary care physician if a change needs to be made. I don't see a conflict there.

## Public Testimony

Kristi Weeks opened up the public testimony period and set the ground rules. There was no time limit put on testimony because there were only six people signed up. She reminded them to focus on the sunrise criteria.

### Curtis Eschels

Mr. Eschels sent a letter prior to the hearing. These are included on the Summary of Written Public Comments on the Web page (<http://www.doh.wa.gov/hsqa/sunrise>). Here are the points he made during the hearing.

I am please to see a well balanced list of modalities being proposed. I feel Washington citizens are well-served by the sunrise process. Here are the high points of my comments:

Right now is the time for adding dietary advice. Qi gong and breathing are low cost practices to increase health. We will contribute to cost-containment for health care reform by adding these to our scope of practice. In-office tests are designed for lay people. The Department of Health can already assure competence for these tests through their Clinical Laboratory Improvement Amendments. These tests will only be used for two purposes, making a decision to refer and to quantitatively assess how treatment is going.

All of these elements would be within the scope of practice of all acupuncturists if the bill is enacted. Two questions have been raised: What if some are not trained to perform these activities, and what if an acupuncturist doesn't want to perform some? As to the first, the Department of Health also requires acupuncturists to meet an accepted standard of care. One aspect of that standard is that a practitioner must be trained in a procedure before performing that procedure – it's already covered as part of our regulation. Also, those who do not have the training will not use it. It is not a problem. The modalities are allowed, not required. In closing, why are we proposing to expand our scope? Patient health is foremost. These additions give us tools to prevent illness and restore health. Although our nouns and verbs differ, Western providers and we work with the same human body. It is important that acupuncturists communicate with some of the same terms, and that's another reason why our using a few simple tests helps us and conventional providers understand each other. I have some handouts for the panel that illustrate our integrating acupuncture/Asian medicine with conventional medicine.

These are welcome additions for Washingtonians. I recommend your support for the proposal.

**Jason Hoeft:** I am trying to understand what the office-based tests will be used for. You say in your written materials that DOH rules will define or limit what acupuncturists can do under the expanded scope. What are those limitations?

**Response:** The primary one is the application of the Clinical Laboratory Improvement Amendments. It is an existing body of regulation that specifies which tests are allowed and how they are administered, etc.

**Jason Hoeft:** You also say the tests will primarily be used for two purposes; for referrals to a PCP and to quantitatively assist in the treatment. If a patient comes in to get this test and an acupuncturist decides a referral is needed, isn't the patient going to incur a double cost?

**Response:** Possibly, but it wouldn't have to. I think if the referral included the results of the test. Let me turn it around. I ask my patients to bring MRI written reports so that I know which vertebra is affected. From a Western standpoint of the problem, I would anticipate the same kind of referral if I was doing a test.

**Ezra Eikemeyer**

### **Representing Advocates for Advancement of Asian Medicine (AAAM)**

I am a lobbyist and political consultant, not an acupuncturist. I will only answer questions I'm qualified to answer. First of all, I would like to take a step back and address the overview of what Asian medicine is. What we are dealing with is a system of medicine that was developed in many cultures across Asia literally for thousands of years using a very basic form of the scientific method, trial and error. This includes recording results, coming up with theories and concepts, and then testing them in real life. This is not a belief system or an alternative modality of medicine. This is a complete system of medicine that was developed in many cultures thousands of years ago. There is an incredible amount of experience and data success with the practices that go on within the system of Asian medicine. I would encourage all of you to do some research into the history of this incredible system of medicine and its effectiveness in some parts of Asia. They are taking that system of medicine and also applying Western medicine to it with incredible results. For example, MRI testing can give you insight into the body that no level of pulse diagnosis ever could. There is no reason to not use the two in tandem.

Let me give you an example of an acupuncturist, or practitioner of Asian medicine as people want to call them next year, who does a pulse diagnosis and discovers there may be something going on with the heart that they can't exactly identify. If they can have the authority to order a more scientific test from a trained professional in a licensed clinic to more specifically identify what is going on in the heart, they can help get the patient quicker knowledge of the condition. As opposed to the acupuncturist having to refer them to a primary care physician who then refers them to a specialist who then gets the test done. That list of events costs our society a whole lot more time and money with possibly slower results than if an acupuncturist referred to a specific type of testing.

Additionally, with in-office testing for example, there has been talk about pregnancy. If an acupuncturist who has been seeing a patient for two years and is familiar with their pulse, were to feel something different and suspect it's a pregnancy... a pregnancy test these days is something we can all do at home with a great deal of accuracy. If they had the authority to do a test right there on the spot within their scope of practice, not only would that give them instant knowledge about how to alter their treatment if needed within the system of patient medicine; that test may not need to be duplicated by a Department of Health licensed MD or physician if that patient needed assistance for the pregnancy or needed to confirm the pregnancy. It is my interpretation and my personal perception with all of this, knowing something about the health care industry that having the ability to do these basic in-office tests would actually decrease the rates of duplicity in testing.

Additionally with the change of title and listing of these practitioners as acupuncturists, I would like to turn it around a little bit. I will give you a very fantastical scenario. Let's imagine a Western doctor who is trained in a whole system of medicine, went to an Asian country where they had very little knowledge of Western medicine, and got a very basic license, called a prescriber of pharmaceuticals. All they were allowed to do in their scope of practice in this mythical country would be to examine and question the patient and prescribe pharmaceuticals and that was it. A whole portion of their training would have gone to waste. There would have been a complete lack of recognition about the system of medicine and it would lead to some confusion if that practitioner was to utilize some of the additional skills they were trained for. This is one of the reasons this scope of practice process is so important. It is crucial that we recognize this holistic system of medicine of which acupuncture is one method of treatment, and recognize that practitioners of Asian medicine are trained in diagnosis through very quick examinations that can give patients a very quick and very accurate understanding of their health condition. This is one of the reasons we have so many return clients to Asian medicine practitioners, acupuncturists, because of the effectiveness and precision of which they can determine what is going on with a patient. Also, they are trained about when to say that they don't know and when to refer. With that, I encourage this panel really get a great understanding of the history and scope of the magnitude of the system of medicine these people are trained in.

**Meghan:** Since this is such an old type of medicine, why weren't these modalities, aside from in-office testing, discussed when the scope of practice was developed for acupuncturists? If they have been learning and doing these for so many thousands of years, why wasn't it included?

**Response:** Why didn't these things come up in 1985 when the initial license was granted to the practitioners? I'm going to speak second-hand, so anyone with better information please feel free to refute what I'm about to say on this matter. I believe at the time, based on talking to people who were loosely involved, it was an even lesser known model of medicine. People who were writing the scope wanted a very basic scope of practice that basically opened the door for licensing in this state. But the intention was for us to refine it over the coming years as a greater understanding from society of this system of medicine came about. At the time politically, from what I understand (since I was only seven years old and wasn't there).

**Richard Brighthouse**  
**WAOMA Member**

I wanted to clarify a couple of things. I know acupuncturists in other states, California, New Mexico, and Florida, and they have a much broader scope of practice than we do, especially with testing. It has been very positive in their states. We are highly educated here in Washington State, but we actually have much less in terms of what we can do than other states. If you look at those three states with a broader scope, you see a lot of safety. I think in California and Florida, they are primary care providers, so you can see how far behind we are. We are just trying to bridge the gap a little bit. So many patients that come in really need help. We would run a simple test and refer them to a licensed doctor or naturopath and have them do more investigation. Sometimes a patient goes two or three years without have any tests done. If you do a simple thing that can pinpoint little things, other licensed practitioners licensed in those specific fields can help. Sometimes referral is sketchy and you don't know what is going on with a patient because of so many different doctors. In some cases they haven't been to a doctor in three years. So if you can pick up something with simple tests and then have someone you feel comfortable with to refer to, it will increase the whole health of that patient and bring confidence to the profession.

We are trying to integrate Western medicine, as Curt said so well, because so many of our patients come in with fibromyalgia and arthritis, all these Western terms, but we have Chinese versions of what causes that. Also, there are other things going on. It would be very important for us to be able to exchange information with your family physician. They may need to do more testing, but at least you can give them an indicator of what tests are needed, or where they may need to take a more focused look. We are

not trying to diagnose as much as figure out what is going on and then refer to other people who are qualified to treat those things. I think if it's used in this context, we are going to have greater success and actually lower health care costs. Like I said, Florida, California, and New Mexico are a lot further ahead than we are and this is a very alternative, holistic state, and I think we need to move in that direction with our scope of practice.

I would also like to talk about incorporating supplements and other things besides just Chinese herbs into our practice. Many patients need vitamins or something to help them overall, and they aren't getting this information from their MD. He's not telling them to take more calcium or magnesium. He's telling them to take Tums, which is not what you should do. I think in some ways we need to increase that to where we can talk to patients about a broader perspective of what they are taking in food-wise and include nutritional things to help protect them from disease. This affects health care costs in our country. Medical doctors are not preventing disease and we need to be part of that. Alternative people need to tell people what they need to take, such as antioxidants. Studies have proven they help prevent disease.

**Luisa Parada:** On the application it says there are about 1,200 practicing acupuncturists in Washington and about 200 members of WAOMA. Would you anticipate more people joining your ranks? I don't know if that's a big number or not. But would you anticipate more people because of an increased scope?

**Response:** That would be really nice. There are a lot of licensed acupuncturists that have a lot more knowledge than just sticking needles in people. Because we do a lot of trainings and have a lot of incorporated stuff, emotional work and different things like that in acupuncture. The acupuncture guidelines can work with many facets of a person's health from a very safe standpoint. We are not going to be prescribing or talking to them about things that are going to do any harm. It's all about things in support of the body. But as far as numbers, I think it would increase them having a bigger scope. I think a lot of us feel sort of limited now in what we can do and we have much more potential. We're not scared to tell someone they should take a multiple vitamin in the morning. If you go to a health food store, that's what they'll tell you. Here is a multi-vitamin that will help with this, this, and this. We should have the right, because we are much more knowledgeable than someone at a health food store. We can tell them about studies that show antioxidants have proof and they can protect you against all these diseases you are taking all these drugs for.

**Jason Hoeft:** With vitamins, would you talk about the benefits of Vitamin D, or would you say they should take this level of Vitamin D.

**Response:** I think that's a good question. There are a lot of conflicting views on this issue. There is tons of information out on it. I think the best thing to do would be to say you feel Vitamin D would be good for you. Here are some of the studies and recommendations. It's up to them. I can tell them how much I take. I take 50 mg of B Complex and it makes me feel better personally, but that may not be what is right for you. I don't think it's prescribing a certain amount, but generally saying that B Complex for nervous systems is very good.

**Jason Hoeft:** So it won't be like the use of Chinese herbs with a specific amount for a specific problem for treatment. It is more in the nutritional/lifestyle counseling. Could you talk a little bit about your understanding about acupuncturists or studies of Asian medicine, their education in vitamins and more broadly?

**Response:** I think we learn in school about a lot of the items in terms of how they affect the body, in terms of heat and dampness, and protection against pathogens and getting sick. I think that is in some of the training I've had. Many acupuncturists or Asian medicine practitioners have learned a lot more. I've been doing acupuncture for 11 years now and had a massage therapist license in this state since 1984, and I started studying nutrition in 1980. I know a lot about nutrition because of my background. A lot of vitamins are very beneficial without the risk of overdose. Taking too much vitamin B Complex doesn't

hurt you. Taking too much calcium doesn't hurt you. If someone has sore muscles, you can ask if they've heard about magnesium. Taking magnesium for some people does help to relax muscles. If you look at the physiology of magnesium, that's exactly what it does. It actually prevents heart attacks. Many people are more convinced that calcium is what they need, because that's what they've been told. But magnesium is more important for bone growth.

Kristi Weeks stated we are making the distinction here between giving advice and sharing information without prescribing... giving suggestions.

### **Carl Nelson**

#### **Representing the Washington State Medical Association (WSMA)**

WSMA has some concerns about the proposal. We will submit written comments as well, but I would like to make a few points.

1. Asian medicine practitioners as a system of medicine – many blur the distinction between Eastern and Western medicine. This may confuse patients, especially the elderly.
2. The definition is now very close to RCW 18.71 in regard to diagnosis.
3. We are concerned about the use of lancets, using a sharp, pointed instrument and the incision it might make.
4. Testing is a big concern
  - Primary physicians will retest.
  - Someone has to pay the Department of Health for the MTS license/CLIA waiver.
  - If tests are done by an acupuncturist and then the primary care physician, there will be additional costs. The insurance carriers will have to pay for them because of the any category of provider law, which includes acupuncturists. But I don't know how the carriers will treat these tests by more than one provider.
  - There is a medical acupuncture specialty. MDs use medical acupuncture
  - We are in the process of instituting health care reform. The big issue in health care reform is cost, cost, cost. We are here talking about expanding the scope, which will add more costs. We are going to allow tests, so there will be tests at the acupuncture office and at the physician office. All of this will add costs. I understand that is part of the sunrise criteria. It seems to me that most scope issues add costs and that is a concern to us. But obviously that is for you to determine and report back to the legislature.

**Jason Hoeft:** Could you talk a bit more about your concerns around the confusion of blurring the lines between East and West from a patient perspective?

**Response:** I think with the term of Asian medical practitioner, the average consumer doesn't know what that is. Granted, acupuncturists are going to do branding of some sort, but we see this time and time again where particularly elderly patients don't know the difference between the two.

### **George Whiteside**

#### **WAOMA President**

I've been on the board five years and practicing as an acupuncturist/Oriental medicine practitioner since 1997. There were some comments not on the Web site that came in I would like to address. One in particular stated concern that Asian is perhaps too broad. Oriental is also broad, but it's what we do. We've been looking at how we could best deal with that. We've considered practitioner of East Asian medicine, which would be a little more accurate, but can you imagine how confusing the acronym would be. AMP could certainly be defined well in our statute and in WAC. The distinction between the elements of the bridge between East and West medicine could easily be defined in our informed consent document patients have to sign. We can work with Department of Health to make it perfectly clear we are not primary care providers of Western medicine. I would also like to mention that there are people with religious and spiritual beliefs that tend to shy away from Western medicine and we actually don't deter people from Western medicine. I think the opposite is more common. People are reluctant and like

the fact that we are alternative and they come to us and we see a condition and tell them they should really see a primary care provider. They are more likely to see a primary care provider at that point. So, it is important to see that we are a bridge between different philosophies and perspectives and I think our existence helps to improve the medical profession and health care.

We have included the change in title. Some may see it as a change in scope or creation of a new profession. We believe it is merely a correction in emphasis that would have been best made originally. But this system was probably too obscure and foreign for the public to understand before now. We also have found through our work with SB5320 last session that the term Asian medicine is more socially acceptable than Oriental medicine. At this point the profession uses the term Oriental medicine with positive associations. However, there are elements within the culture that are offended by the term and some even personally hurt by the term. We think it is time to shift away from the term Oriental medicine. Our focus on verification in title was prompted by the broad trend in use of the professional nomenclature that defined who we are, what we do, and how we as practitioners are perceived by regulators, other professions, and the public. The term acupuncture from the beginning has been used to both describe a single procedure and an overarching system. Pertaining to the system of Asian medicine, practice through the other modalities are within our scope. Inadvertently, the multiple uses of the term acupuncture have created confusion and we need to clear that up by using a true system. Use of the umbrella term acupuncture for medicine in state and national organizations began shifting in the 1990s to acupuncture and Oriental medicine. Almost everyone in the profession championed this change as a step forward, bringing new emphasis to an underlying system of medicine that we all practice. By continuing to use a modality name to describe a system makes it easy to mistake our practice as narrowly focused on acupuncture, rather than a unifying system of medicine as the basis of our scope. It is also easy to confuse the way some educational institutions are using Oriental medicine. The term Oriental or Asian medicine is sometimes used on the diploma to refer to the addition of herbs training, when in fact, Oriental or Asian medicine are the foundation for the modalities all acupuncturists practice. Further in the process of considering the new title, it has also become clear that the term Oriental in any context is socially and politically unacceptable. California has removed the term Oriental from their statutes and there are several other states in this process. I think the profession has realized this new term is more acceptable.

There was a question earlier about why we use the term massage. We are happy to use the term Asian massage. The reason we want to use Asian massage is because tui na is a Chinese term and Asian medicine comes from many countries and cultures and languages. We would hate for a practitioner to learn a Japanese version under a slightly different name and be brought up because you didn't write down tui na. That's why we believe it's important to acknowledge that we practice different variations of massage. We understand that the acupuncturists will still be able to refer to ourselves as acupuncturists. And I can imagine there is no law against saying we are licensed practitioners including acupuncturists. There's more to see in terms of branding. There will probably be a transition phase where they will still want to use acupuncturist, and advertise that way.

All professions' standards of care and education evolve. The core curriculum for the acupuncture program requires we take dietary advice classes, including food substances. Many require a basic understanding of Asian medicine. We believe it is part of our curriculum. With respect to herbs and acupuncturists, we have included herbs in our dietary recommendations to patients throughout time. They have been licensed for dietary advice. Practitioners are educated on herbs at various levels. As herbs are unregulated and available to the general public, and there have been no complaints filed against acupuncturists for herbal practice, practitioners have been practicing within their individual limits of competence and training. Practitioners have used a variety of sources for gaining competence in unregulated substances, from self-study to workshops, to mentorship, to taking additional study of herbs in the certification program, as well as the base training we receive. Most practitioners get additional training on herbs when they want it. Ultimately, each practitioner is liable to practice any aspect of medicine competently and within their training.

**Dianna Staley:** Of the approximately three and a half years of training for acupuncturists, about what percentage of it centers on pharmacology.

**Response:** Western pharmacology, or pharmacology in general?

**Dianna Staley:** Pharmacology in general, because if you are going to be giving advice on herbs and things like that, you obviously would need to know what the contraindications would be for Western pharmacology.

**Response:** It is my understanding, and we can detail this later, that you have to look at the foundation like a pyramid. There are foundations in basic Western sciences and then we go up all the way through Western pharmacology. Obviously, the level of Western pharmacology we take is not what a primary care provider gets, but we need some basic understanding of it because people come to us and sometimes we find that the horrible symptom is a potential side-effect of the medication you are on. Go back to your primary care provider and figure out if there is another option or if this is the cause. That training is very valuable. Did that answer your question?

**Dianna Staley:** No. What percent or number of hours of your training is pharmacology?

**Response:** I will get back to you on that.

### **Rebekah Giangreco**

One can learn simple acupuncture in a few days time, as maybe medical acupuncturists have learned to do. Other than the in-office testing, which I can see the controversy around, all these tests we are talking about are ones folks can go to the pharmacy and purchase and administer for themselves. Also, the vitamin recommendations, which again you can go to a supplement store and get lots of information on vitamins, but many people don't know how to get this information. Other than those two pieces, this bill incorporates a body of medicine that I trained for three years to do, and continue to refine in my practice. I would like for you to change our scope to match our education and most of our practices.

### **Applicant Rebuttal**

We commonly use the stethoscope. Most practitioners do. It took 50 years for it to be used commonly.

I want to clarify that the term is not Asian *medical* practitioner. It's Asian *medicine* practitioner. I wanted to make that clear that we are practitioners of Asian medicine.

Regarding MTS licensure, absolutely there is a cost. There is a cost to the practitioner for the license. The process is the practitioner completes an application and I recollect it costs somewhere around \$150 per year depending on the tests that are done. It varies by level, but is pretty low. The cost to the patient for in-office testing can be done very inexpensively. The costs are pretty negligible.

Lancets are commonly sold over the counter with no prescription needed. They are a common device for doing finger sticks at home, etc. We use them because that is what we were trained to use. The reason we added them to the scope of practice was that a couple of people wanted us to clarify what sort of needles could be used. There are different types of acupuncture needles. All the programs I'm aware of use the same lancets that are sold over the counter, disposable, and single use.

Regarding nutrients and supplementation, many practitioners attend functional medicine seminars. They are NCCAOM approved, and at these seminars you are learning dosing. It's very important because we are the experts. When my patients come to me, it is my duty to know what I'm talking about. If I don't



know what I'm talking about, I tell the patient that I don't have an answer. It is much safer for a patient to come to us for advice on nutrients and supplementation than I feel it is for them to go to any grocery store or where they might be getting advice from a non-licensed person. Can harm be done with supplementation? I would say yes, that absolutely it could. One needs to know what one is talking about. It is up to us to have that training and practice within our training. I take this very seriously.

Regarding the comment about elderly patients not knowing the difference between Asian medicine and acupuncture, the bulk of my patient base is made up of seniors. They are all pretty astute, even the ones in their 90s. Some aren't, but I also have some patients in their 30s and 40s who have, shall we say, mental cloudiness. I like to give people the benefit of the doubt as to their intelligence. Our patients are hungry, are thirsty for our knowledge. They come to us expecting and needing an alternative, different treatment. They usually find we have more time to spend with the patient. We take the time, and we answer questions. This is really important.

Another thing mentioned was about pregnancy tests and the benefits of doing that. If we get a positive pregnancy test from a patient, then they can begin prenatal care sooner. That would come from an immediate referral to another practitioner. It's all about patient care, what is best for the patient. On my intake forms, I ask what the date was of their last GYN exam. If more than one year, I recommend they go get an exam. If their primary care provider says it is not needed, I am OK with that and will document it.

The other thing I think it is important to touch on is the consent to treat form. We all have these forms that describe what we do and we could include what an Asian medicine practitioner does. I don't think there will be confusion about this.

Also, I need to make a correction. The biomedicine module is in use now.

**Jason:** They say on their Web site that it is in use now, just not for Washington.

There was some confusion on this issue, so Kristi Weeks asked the applicant to research this issue and report back to us within the next comment period.

**Applicant's Response:** Regarding the question on pharmacology, from the first part of our education we talk about herbs and Western medicine drug interaction. In terms of hours, I will follow up on the percentage.

In Washington, continuing education credits are not required of licensed acupuncturists. We actually approached the Department of Health on this issue because we want it. We were told that it probably wouldn't happen, in part because the complaint rates are very low, and also due to budget considerations because it is costly. Most acupuncturists get continuing education on a regular basis. Let me put it this way, I am a little blip in a system of medicine that is ancient. That doesn't negate the fact that I should be keeping current in Western techniques, etc. I need to, if nothing else, know what my patients are talking about. And most of us do talk with other medical providers and it is our job to keep current. It is our responsibility because it is all about what is best for the patient.

Kristi Weeks closed the hearing at 11:20. She gave next steps:

- Beginning today through August 9 at 5:00 pm, there is an additional comment period.
- Between August 9 and the first of September, Jason will be drafting the report.
- When that is done in early September, we will share the draft report with interested parties.
- You will have the opportunity to comment on the draft recommendations.
- We will then incorporate these comments into the report if appropriate and submit the report to the Secretary of the Department of Health for approval in October.
- Then, it goes to the Office of Financial Management for their approval, and then to the legislature.

- Once it is released to the legislature, we will post it on the Web site to be available to the public.
- At that point, it is in the hands of the legislature to act on. The report is only recommendations.

#### Participant List

| <b>Name</b>       | <b>Signed in Representing</b> | <b>Position on Proposal</b> |
|-------------------|-------------------------------|-----------------------------|
| Leslie Emerick    | WAOMA                         | Pro                         |
| Curtis Eschels    | Self                          | Pro                         |
| Ezra Eickmeyer    | AAAM                          | Pro                         |
| Lisa vanHaagen    | WAOMA (Applicant)             | Pro                         |
| Mark Tibeau       | WAOMA Washington School       | Pro                         |
| Mark Nolting      | Self                          | Pro (with questions)        |
| Rich Brightheart  | WAOMA                         | Pro                         |
| Marybeth Berney   | AMTA-WA                       | Pro (with changes)          |
| Susan Shultz      | WAOMA                         | Pro                         |
| Christine Hansen  | WAOMA                         | Pro                         |
| Andrea Iwiula     | WAOMA                         | Pro                         |
| Aupuni Iwiula     |                               | Pro                         |
| Carl Nelson       | WSMA                          | Con                         |
| George Whiteside  | WAOMA                         | Pro                         |
| Melanie Stewart   | AMTA-WA Chapter               | Pro                         |
| Derek Kirkham     | WAOMA/Glow Natural Health     | Pro                         |
| Rebekah Giangreco | New Moon Family Acupuncture   | Pro                         |
| Andrew Stahl      | Sunrise Acupuncture           | Pro                         |

## **Appendix E: Summary of Written Comments**

The department received letters and emails from acupuncturists, patients, professional associations, and other health care providers regarding this proposal. This summary is separated into four sections. Section one summarizes the messages received from individuals on the proposal. Section two summarizes the messages received from groups such as schools and professional associations. Section three is the follow up information provided by the applicant after the hearing.

### **SECTION ONE: COMMENTS RECEIVED FROM INDIVIDUALS**

#### **Received from Acupuncturists**

They stated that we need to recognize acupuncture as a complete and intact medical system, which includes herbal therapies, dietary advice, recommendations of meditation or breathing exercises, and health education. Acupuncture is just one modality of this system, and the national examination (NCCAOM) reflects this. The current scope of practice does not reflect the education and standards of practice. It severely limits acupuncturists' ability to serve patients.

Many stated they are not sure how the original acupuncture scope was passed into law because it is so inadequate. Perhaps it was because this medicine was in its infancy. Compared to standards of practice in other states, Washington's scope of practice is very out of date. The proposed scope of practice would make it clear acupuncturists are not merely technicians inserting needles, but skilled in assessing, diagnosing, and treating a wide range of conditions.

They stated that the public will benefit from a clear and concise description of what acupuncturists do, which is practice a comprehensive system of medicine derived from Asian countries. Patients will be better informed on what an Asian medicine practitioner can do which will increase public safety.

A student of acupuncture told of the learning she is receiving from Bastyr University. She states they learn the wide scope of Oriental medicine along with strong clinical training, progression of disease, etc., so they are very equipped to relate to patients with a wide variety of illnesses and diseases. She states their clinical training is "impeccable", using best practices in clean needle techniques and use of lancets. She further states that training takes place in more than ten facilities, including Harborview Hospital.

They stated this medicine effectively prevents and treats disease by changes in diet, exercise, and mitigating the effects of stress. This bill helps acupuncturists treat the whole person to overcome illness through natural, proven, sustaining methods that will reduce health care costs over time. The present health care system is not sustainable financially and treating symptoms with drugs is not effective health care. Adding these elements will give acupuncturists more tools to prevent illness and restore health to their patients.

In addition, some have stated:

- There is A segment of the population that is disillusioned with the existing Western medicine model who seek help from alternative practitioners before anyone else.
- The word "mindfulness" should be added, or "mindfulness skills" to the list of services acupuncturists can perform. This word represents the connection between the body, mind, and spirit as an essential part of a patient's well being.
- A few acupuncturists wrote to state they do not support the increased scope or change in title. They are concerned that their knowledge and training are not enough for acupuncturists to diagnose, order lab tests, and prescribe vitamins and minerals. They feel their current scope is sufficient.
- "As to the issue of evidence-based practice, the NIH has long acknowledged that traditional double-blind, placebo-tested clinical trials don't fit the model of Chinese medicine, and that a new model is needed for testing. Detractors keep dragging this argument out when it is a moot point in terms of research into Chinese medicine. We have on our OCOM faculty a world-renowned OM researcher,

Dr. Richard Hammerschlag, who lectures internationally and who taught us about research and Chinese medicine. Before the detractors use specious arguments to support their opinions, they should do a better job of investigating their facts.”

- The addition of dietary and nutritional counseling is an exciting addition. Patients ask questions about nutritional supplements and dietary changes that their primary physician doesn’t have time to answer. In addition, Internet research can be confusing and biased. We can add educated opinions on this issue and help patients navigate the world of vitamins and supplements.
- “...Doctors and then dentists have cunningly written additions to their scope of practice allowing them to perform “acupuncture” or “dry needling” with little more than a couple of weeks worth of continuing education. That’s barely enough to learn the meridians, a few major acupuncture points, and how to avoid a pneumothorax. That is hardly the scope of Chinese or Oriental medicine, yet true licensed acupuncturists or OM practitioners were not given an opportunity to rebut this expansion of their scope of practice. I tell all my clients that, while it is good that there seems to be an increased interest in Chinese medicine by mainstream Western medicine, this does not guarantee them the quality of treatment or health outcomes that one would expect from a licensed practitioner and one who has tested competent and reliable by NCCAOM standards.”
- One acupuncturist wrote that these changes in scope are between Washington acupuncturists and the Department of Health, not those in the health care field who feel their “toes are being stepped on.” He states, “I hope all the negative comments submitted by non-acupuncturists will be viewed in the light of fear and ignorance they are based upon. (I use ignorance to mean uninformed.)”
- It is clear that many who have commented on this proposal have little to no knowledge about an acupuncturist’s education and practice. The scope of practice should be expanded because all health professions grow, and the laws must change to allow progress for the benefit of the public safety. Acupuncturists have a broad base knowledge from which to draw and expand as the profession grows, just as allopathic and other medical professions do. The example given was when a new medicine comes out in allopathic medicine, often a pharmaceutical salesman explains the use and dosing of the new medication, rather than the allopathic doctor returning to school for more classes. Acupuncturists are “highly qualified health professionals trained in our field of medicine and as a profession has an unsurpassed safety record.”
- A medical system that has been in practice for 4,000 years is far from limited in scope, and it is amazing how many different issues with the mind, body, and spirit this medicine can treat. One acupuncturist relayed a story about a patient coming to her in what appeared to be a manic episode that several doctors had not been able to help with. She had refused care because she was offended by the suggestion it was a manic episode. After acupuncture treatment she returned to normal and is open to evaluation and medication if needed. Sometimes acupuncture is enough for bipolar disorder, and sometimes medication is needed. If medication is needed, side effects are often diminished when combined with acupuncture.
- One acupuncturist told about his family helping people and educating them about acupuncture. He stated that the first problem is that people only think acupuncturists can treat them for chronic pain. Probably 80% of his patients come through the door for this reason. They do not think of acupuncture for digestive, sleep, or immune system problems, other systemic issues of the body that acupuncture can treat successfully. The second problem is that people do not use this medicine correctly, and think that a few treatments will cure them. In most cases, they treat chronic problems that took up to 20 years to develop, so just a few sessions won’t make permanent changes. These problems show the lack of understanding there is about this medicine.
- Though continuing education is not mandatory for licensure, it is mandatory to retain a Diplomate of Acupuncture national certification. This system of medicine is dynamic, not static, in nature, and practitioners should remain current in their practices.

- Two acupuncturists wrote that they would like the Department of Health to wait to hear more input from the profession before making a decision on this proposal.
- One practitioner wrote about testifying in other states as a patient on this issue. She states that the most vocal opponent was someone practicing acupuncture as the majority of his practice, while holding different types of health care licenses and only a few months of training in Asian medicine. She stated this practitioner rationalized that his years of Western medical training made him a safer Asian medicine practitioner than those seeking the right to practice with years of specialized training, internships in Asian medicine, and an Asian medicine license. Almost all opposition came from other health care professionals defending their own self interest, attempting to create fear that was not based on evidence. She wrote that she is stunned we are still wasting time and energy on “political muckraking.” She stated that the responsible oversight for her profession should be by qualified persons from within the profession who do not serve others’ special interests, and that we should be skeptical of those with affiliations outside Asian medicine who are looking out for their own interests. She stated we should listen to those trained in Asian medicine about what is best for their scope of practice, as well as all the patients who have benefited from this system of medicine.
- “The current scope of practice laws are apparently not sufficient and need to be expanded to reflect the more comprehensive nature of acupuncture practitioner training. Recent narrow, legalistic interpretations of our scope of practice by the Department of Health, while well intentioned, do not serve the public interest of protecting health and represent an unfair discrimination against a legitimate and well established medical profession.”
- An acupuncturist suggested removing the word “massage” and replacing it with “Asian bodywork therapy,” which he stated is what the NCCAOM calls it. He feels Tuina and acupressure would be subcategories, or we could also use the phrase “manual therapy.”
- A few acupuncturists recommend establishing an active acupuncture board to provide effective review of complaints.
- One acupuncturist suggested a requirement of 60 CEUs every four years like the NCCAOM requires.
- One acupuncturist wrote that colleagues sit with him in continuing education classes every weekend learning about nutrition, hepatitis C, counseling, cancer, auto-immune diseases, etc. to enhance their modalities.
- An acupuncturist wrote, “In the almost 25 years that I have been in practice, the confusion surrounding our legal nomenclature of “acupuncturist” and what it is that a licensed acupuncturist actually does has been ongoing and profound. The confusion has laid with the patient community who comes to me expecting many and varied things, with the DOH that has inconsistently understood and interpreted our law to practice, and the State Attorneys General Office that has at one time interpreted our law as saying or implying one thing and at other times interpreted it almost oppositely.” This acupuncturist further stated that WAOMA has worked long and hard on these issues and is in agreement over the proposal they have come up with, and that there shouldn’t be any reason for other professions to be wary of this proposal. It includes things they have been doing without any harm to the public.

### **Received from Patients**

Many patients sent in statements that acupuncturists play an important role in health care in Washington state and they support the changes to the scope of practice in full. They have received very effective treatments from their acupuncturists and would want the additional modalities available to them if their acupuncturists were to determine their usefulness. They would be comforted by having the modalities in law so acupuncturists would be held to professional standards of responsibility and discipline. They also support the in-office testing addition as an added measure of comfort and safety. They feel it would add another layer of screening they could have without making a separate appointment with another health

care provider and more costs. They stated that acupuncturists have an excellent safety record which they expect to continue. In addition, some have stated:

- They have received excellent treatment from their acupuncturists based on knowledge and expertise. Many patients wrote with success stories of their treatment, for allergies, chronic pain, headaches, respiratory infections, and acupuncture always achieved the results they were seeking.
- We need to stop covering up systems with drugs and get to the root of the problem, which includes the habit many MDs have formed in relying on pharmaceuticals and unnecessary surgical procedures non-invasive Asian medical procedures can avoid.
- One patient told a story of acupuncture helping with many conditions. Most recently, this patient was diagnosed with two cancers, and acupuncture helped with recovery and pain relief from three major surgeries, and with the side effects of radiation therapy.
- “I know for a fact that this method of ‘blood letting’ in specific locations on the human body in particular has been time tested for over 2,000 years in traditional Chinese medicine and it still works to this day.”
- One patient wrote that he believes acupuncturists and Asian medicine providers are happy to work alongside Western physicians to achieve relief for patients.
- One patient told of being uninsured and underinsured for many years before finding acupuncture and being able to afford health care. She told stories about acupuncture releasing life-threatening uterine fibroids naturally and painlessly, of getting low-cost cures for colds, flu, muscle aches, stress, weight loss and insomnia, as well as having her nine year old daughter cured of a ski injury.
- One patient wrote that he is in poor health and has benefited from a team of professionals to aid in his medical treatments and choices, finding medicine and surgery inadequate to maintain his health. He feels the proposal is comprehensive, and will allow for greater use of technology with adequate regulation. He has benefited greatly from acupuncturists. In addition, he lost his health insurance recently and has found that obtaining test results from his doctor are more costly and feels he would benefit from them being available from other practitioners.

#### **Received from Other Practitioners**

- “Twenty-four years ago, I graduated from dental school. At that time, I was trained to do a lot of procedures without gloves and only a handful of patients were taking one or two medications. Today, gloves are uniformly used for everything and the majority of patients are on so many medications that I have to check if anything I would prescribe would interfere. My point is, things change over time and when changing laws we need to have a future vision.” This commenter continued with an example of recent studies linking periodontal disease to heart disease and the tests that go along with this link. She compares this to screening for Western medicine problems that could verify the Asian medicine diagnosis.
- These proposed changes “imply and condone these services as a valid option for medical care, rather than as currently seen as a supplement to allopathic medicine.” We should see the same necessity for evidence based care to uphold the “first do no harm” in any form of medicine.
- “The NCCAM was founded on the basis that some types of medicine and treatments are not testable by conventional means.” That is no longer true, as double blind studies have shown that most of acupuncture and alternative medicine is a form of placebo effect and not proven by testing. This provider’s proposal is to decrease the acupuncturists’ scope, not increase it, stating there have been many studies that have discredited the use of acupuncture in all but a few circumstances. Licensing acupuncturists gives legitimacy and sanctions it.
- It is inappropriate and potentially dangerous to give Master’s level acupuncturists this broadened scope of practice. They are not trained adequately in basic health sciences and laboratory medicine

and diagnosis to be able to order and interpret appropriate tests. Even if there were changes in curriculum to prepare them for this, they will not be able to deal with diagnoses that come up.

- A naturopathic physician who is a consumer of acupuncture and also refers to acupuncturists, wrote with concerns about allowing acupuncturists to be primary care providers without adequate training to diagnose medical conditions. Though expert at Chinese medical diagnosis, they are not trained to “identify and triage patients with evidence of cancer, heart problems, and other acute conditions.”
- An MD wrote to say that many of his patients use Chinese medicine. He stated that acupuncture without herbs is like having surgical treatments without pharmaceuticals. Acupuncture is not a complete system of medicine by itself. “Since many people use Chinese medicine practitioners to augment their primary care, he asked that we consider including Chinese herbology in the acupuncturist’s scope of practice, when appropriately trained. This move is in the best interest of the medical consumer.”
- “I have practiced for 25 years in Western medicine as a board-certified pathologist, in hospital administration working on credentialing of alternative care providers, in public health (Tacoma-Pierce County Health Dept.) for medical access to care and emergency preparedness, and finally as a fully-licensed acupuncturist. I can truthfully say that the acupuncture training I received and the care I give my patients is the greatest “medicine” I have offered to others in my entire career in health care. It is vital that the acupuncture community be able to remain up-to-date on their training and care.”

## **Comments on Specific Parts of Proposal**

### **Definition of Acupuncture/Asian Medicine**

One acupuncturist suggested a small wording change to retain the focus of acupuncturists on their traditional roots. In section 1.4(1), keep the phrase “based on an Oriental [Asian] system of medical theory” to indicate legislative intent to retain the link between acupuncturists and Oriental/Asian medicine.

### **In-Office Testing**

- The in-office testing should have a proven benefit as well as evaluation of potential for harm in diagnosis.
- A one-day course for in-office testing is not enough. Acupuncturists are not properly trained to take samples of blood, urine, stool, and saliva, nor to read and interpret lab results. In addition, this will open them up to future litigation if there is a misdiagnosis.
- Some asked what types of testing would be done.
- A practitioner wrote to state there are many licensed acupuncturists who hold other licenses, such as naturopathic physicians and medical doctors. They requested we make sure the recommendations are specific that these practitioners who already hold a license that includes handling and testing of body fluids can opt out of the professional development class requirement.
- Some acupuncturists and other health care providers had concerns about lab testing. They stated that a primary care physician should be performing these tests, and that acupuncturists are not considered to be primary care providers. If this is added to the statute, acupuncturists should be required to have additional training. There should be specific wording in the bill regarding opting in or out, including how to designate acupuncturists who use it. The public should not be confused on who has or has not had this training.
- One patient told a story of having to take two days off work (with two weeks in between) to get blood sugar, cholesterol, and homocysteine checked; one day to go to the lab and the second day to go to the doctor to get the results. In this period, his blood sugar would fluctuate. If he could get

this simple in-office test done by his acupuncturist, it would eliminate the loss of the two additional work days. In addition, he stated his acupuncturist spends more time for treatment than his medical doctor.

- One acupuncturist wrote to state that if an acupuncturist feels additional testing is needed; the patient should be referred to a practitioner who can fully interpret the results and treat any abnormalities.
- Some acupuncturists wrote that they should be able to include some in-office testing. In California, acupuncturists are primary care physicians and are able to order blood work routinely.
- Objections to adding these tests overlook the fact that the proposal applies DOH's "Clinical Laboratory Improvement Amendments" to assure patient safety. Existing rules will define or limit what acupuncturists can do.
- These tests will help integrate Asian and Western medicine by helping acupuncturists communicate using the same terms.
- These will only benefit the patient. Patients unwilling to visit a primary care physician could have screening done in their acupuncturist's office, catching health risks. In-house blood testing will allow practitioners to better assess the effects of herbal and acupuncture treatments. Without them, acupuncturists must assess the success of treatments by patient feedback and tongue and pulse diagnosis, whereas lab tests could confirm a diagnosis.
- One acupuncturist wrote that he realizes much fear exists that acupuncturists will misdiagnose or mis-treat due to ignorance of blood chemistry. He stated those who have not studied the issue will very soon. He stated that part of their training is in knowing when to refer to primary care and that if they can do blood work; physicians should expect more referrals from acupuncturists.
- An acupuncturist wrote that he doesn't support this addition because most acupuncturists do not have the educational or clinical background to provide "prudent interpretation of lab results." He stated that this "infers the level of risk associated with primary care that most acupuncturists are not equipped to assume." If this section is added, he suggests requiring a modality-specific continuing education section.
- An acupuncturist wrote in opposition to this addition, "If the purpose of this proposal is to establish a legal definition in Washington state for acupuncture as part of a larger system of Asian medicine \*that is different from modern biomedicine\*, why blur these boundaries and contradict the stated goal of the proposal."

### **Title Change**

- Some patients and acupuncturists wrote to say that the change in title will be confusing to the public and take the focus away from the principle treatment modality most acupuncturists use.
- One acupuncturist wrote that the term "Asian medicine practitioner" is confusing, and it should be "Acupuncture and Oriental Medicine practitioner." He stated he believes a title change is necessary to illustrate to the public what acupuncturists do, which is practice a complex traditional Chinese medical system using acupuncture points, Tuina, Qi gong, dietary nutrition and Chinese herbal therapies.
- This must be recognized as a system of medicine, and the magnitude of that system must be recognized by changing the title to Asian medicine practitioner.

### **Recommendations and Dispensing of Herbs, Vitamins, Etc.**

- The word "dispense" should not be used. Under the Legend Drug Act, "dispensing" relates to a prescription. "Sell" would be a more appropriate term to use.



- One commenter expressed concern with using New Mexico as a model, stating their counterparts in that state may use or dispense Gerovital, which is a “QUACK medicine.”
- There needs to be more detail about dispensing.
- Dispensing seems to be beyond their scope of practice. Since their license gives them “standing and legitimacy” to the public, they need to be careful.
- A patient wrote about being very dissatisfied with her experience with an acupuncturist in regard to herbal supplements. She told a story about being constantly approached about taking supplements, even though she continued to refuse them. She was told that 100% of the other patients were taking supplements and that her condition needed to be treated with them. She was also told that the acupuncturist had a book comparing herbal medicines to FDA approved medications, but could not produce a copy, stating it was “out of print.” In addition, this patient made very little progress by seeing the acupuncturist.
- Through the NCCAOM credentials, acupuncturists are recognized as experts in the use and application of Chinese and natural herbal products. They recognize that many substances marketed are nothing more than sugar and caffeine, sometimes with vitamins added, not the quality of products they recommend to patients. The products acupuncturists use are strictly GMP certified.
- There should be a specific designation for recommending herbs, vitamins, minerals and nutritional supplements for those with the appropriate training.
- The definition in Attachment B should specifically refer to Chinese herbal medicine to prevent confusion with Western herbal practices because there are no acupuncture programs in Washington that include Western herbal medicine.
- The term “dispensing” should be included because Chinese herbal medicine is not something patients should “self-prescribe.” Application of these medicines is complex. Training is needed to understand the interactions of the herbs in a formula, and to successfully apply within a traditional Chinese medicine diagnosis.
- It has been found to be a conflict of interest for medical physicians to own a pharmacy or dispense medications they have prescribed. The law states they can only prescribe and dispense a medication in rare, extreme instances. It is troubling to think of acupuncturists diagnosing, prescribing, and then dispensing herbal medications. In addition, it seems dangerous that the herbal medications dispensed from their offices are not labeled with exact ingredients.
- Licensed acupuncturists receive formal training in Asian medical and nutrition theory and must pass the NCCAOM exam, which includes basic Oriental medicine dietary theory, basic nutritional principles, and integration of Oriental medicine theory and modern lifestyles.
- Asian formulas consist of ingredients closer in composition to their origins than Western pharmaceuticals, resulting in fewer and less-intense side-effects.
- All acupuncturists receive training in selecting ready-made formulas, and some receive additional, more intense training in individual herbs and combining them for customized formulas.
- A lot of research is being done on biomedical effects of Asian herbal formulas, resulting in verification in Western terms of the efficacy of these formulas. This will result in increased integration between Western and Asian medicine.
- There is a long history of use in Asia, Europe and North America, and ongoing research into the effects of these formulas. The commenter included examples of research.
- Dietary advice is extremely important in Asian medicine. One acupuncturist stated she has seen dramatic improvements in patients by recommending the addition or removal of a common food such as soy, meat, dairy, gluten, or the inclusion of more raw or cooked foods.

- Most vitamins, minerals, and supplements are available over the counter. Acupuncturists should be allowed to offer guidance and dispense these supplements.
- Herbal and dietary therapy should be included in their scope because they are already taught about them in school. Vitamins are an area that would require more training, which should be made available to those who would like to include them in their practice.
- One family wrote that they have relied on the expert nutrition advice provided by their acupuncturists for almost 15 years. They rely on the practitioners' up-to-date knowledge to help them navigate the information available on nutrition and supplementation. They feel their acupuncturists are providing sound information because they attend frequent professional seminars.
- An acupuncturist wrote that suggesting supplements as part of a health and wellness routine is not the same as dispensing, and that they are trained in biomedicine and biochemistry and drug/herb interaction to supplement education in training techniques, herbal therapy, and internal medicine. He stated that he hopes naturopathic doctors and massage therapists see this scope enhancement is not a threat to their professions, and that the goal is to "enable practitioners to provide care in a safer and integrated way for patients who may be receiving care from another primary care provider." He stated patients receiving herbal and acupuncture will understand that naturopathic doctors and massage therapists are well-trained and offer their own medical services, and that any reasonable person would not think that an acupuncturist performing tui na as trying to supplant the role of an LMP.
- An acupuncturist wrote asking that the department not be swayed by special interest groups, adding that there is room for all kinds of medicine, which includes "traditional Chinese medicine, the oldest medicinal tradition in the world." She also stated that she feels most acupuncturists who are not also NDs think Bastyr has never "fully embraced its Chinese medicine program" and has been more focused on its naturopathic medicine program.

### **Breathing, Relaxation, Exercise, Qi Gong, Health Education**

- One acupuncturist wrote that society needs more health practitioners who teach patients how to care for themselves. These practices are low-cost and enrich people's lives and contribute to health care reform and cost containment.
- One acupuncturist stated that pain is often a symptom of other issues, like "heat in the blood," which are not recognized in an MDs standard of care. "Pricking, bleeding, Chinese dietary therapy, and Chinese herbs treat heat in the blood faster than acupuncture alone." This same acupuncturist told a story of a patient with severe pain in his feet, who had not been diagnosed with diabetes. Acupuncture and herbs brought him relief enough to return to work. He refused a nutritionist, naturopathic doctor or blood tests, so the acupuncturist gently encouraged a reduction of simple sugars and greasy food, gave him herbs in accordance with Asian medicine theory, and saw a lot of improvement. He then encouraged the patient to see an MD and he was given a pharmaceutical for cholesterol. He stated, "This is an example of collaborative care and the potential acupuncturists have to help bridge a patient's fears of modern medicine."

### **Massage and Tui Na**

- There were concerns raised from massage therapists about including massage in their scope of practice because massage therapy requires additional schooling and credentialing. They stated that in order to protect the public, this should not be added to the acupuncturists' scope of practice.
- Some stated that tui na is commonly taught in acupuncture schools and is included on the NCCAOM examination. In addition, shiatsu should be added, since it is also commonly taught in schools and is on the examination.
- Some acupuncturists wrote that they have not had any formal training in Western massage as part of acupuncture training. If an acupuncturist wants to practice Western massage, they should be

trained and credentialed as an LMP. However, tui na is different from Western massage and should be included.

- Some wrote that tui na is effective at correcting musculo-skeletal imbalances and is a cornerstone of Asian medicine.
- Acupuncturists have been practicing acupressure safely for 24 years, which is not defined in regulations, but could be understood to include pressing on acupuncture points and meridians, which are types of massage.
- One wrote that for patients averse to needles, such as very young children, massage, tui na, shiatsu, and acupressure are more appropriate modalities than acupuncture.
- One stated that massage has already been shown to benefit the public in the massage, physical therapy, chiropractic, and naturopathic scopes of practice and should be added to the acupuncturist scope of practice.
- An acupuncturist wrote that the distinction between Asian massage (tui na) and other types of massage that LMPs are trained to do is an important one to make in their scope.

### **Use of Lancets**

- Many acupuncturists wrote after the hearing that they want to ensure acupuncturists are able to keep using lancets for bleeding. They stated that it is not surgery.
- One acupuncturist wrote about using lancets occasionally to prick the thumb or index finger, stating if one drop of blood will result in resolving a sore throat or back pain, why shouldn't this technique be more explicitly within their scope? Acupuncturists have been doing this for 4,000 years.

### **Grandfathering**

- One wrote that Asian medicine practitioner should be added as a health care provider with the additional modalities. However, they should meet all the education and credentialing requirements for each modality they want to use, and should be required to submit proof to the state before being licensed as an Asian medicine practitioner. Please do not grandfather acupuncturists as Asian medicine practitioners because they don't have the required education.
- Another wrote that all elements of the proposed scope of practice will be within the scope for all acupuncturists. This will not be a problem. Not all acupuncturists are trained in all aspects of their scope of practice. The Department of Health requires practitioners to be trained in a procedure before performing it, so those trained in a procedure will use it while those who aren't, won't use it.

### **List of individuals whose comments were summarized above:**

#### **Acupuncturists**

| <b>Name</b>                      | <b>Position on Proposal</b>  |
|----------------------------------|------------------------------|
| Susan Friedrich L.Ac., OM,       | Support                      |
| Eli Andrew Stahl, LMP, L.Ac.     | Support                      |
| Ronald J. Ada, L.Ac.             | Support                      |
| Richard Brighthead L.Ac., L.M.P. | Support                      |
| Nesreen Lahham, ND LAc           | Support with Changes         |
| M. Danforth, LAc                 | Support                      |
| Monica Legatt, LAc               | Support                      |
| Masahiro Takakura, ND, LAc, DC   | Opposed                      |
| Markus Tengesdal LAc             | Support, Except Title Change |
| Lisa J Taylor-Swanson, LAc,      | Support                      |

|                                          |                                          |
|------------------------------------------|------------------------------------------|
| Kathleen Kenneally, LAc, LMP, LMHC       | Support                                  |
| Eileen R. Ferree DMD, MAc, LAc           | Support                                  |
| Janelle Bartow, L.Ac                     | Support                                  |
| Dorothy D. Zeviar, Ed.D., LAc            | Support                                  |
| Curtis Eschels                           | Support                                  |
| Jessica Martens, MSA, L.Ac.              | Partial Support/Partial Opposed          |
| Heather Coyle, LAc                       | Support                                  |
| Alex Kraft, ND LAc                       | Opposed                                  |
| Fred Klemmer L.Ac.                       | Support                                  |
| Derek S. Kirkham, MSTOM, L.Ac.           | Support                                  |
| Fred Russo, MSTOM, Lac                   | Support                                  |
| Peishan Chen, L.Ac.                      | Support                                  |
| Vickie Summerquist L.Ac. LMP             | Support                                  |
| Kathy Nordgren, Licensed Acupuncturist   | Support                                  |
| Andrea Booth Lic. Ac.                    | Support                                  |
| Jana Wiley, R.N., M.S., L.Ac.            | Support                                  |
| Laura Gramly MTCM, L.Ac, MSW             | Support                                  |
| MaryLee Calmes, MS, LAc., CCHM           | Support                                  |
| Christina M. Jackson, L.Ac., P.S.        | Support                                  |
| Lee Hullender, MS, Lac                   | Support                                  |
| Carol DeMent, M.Ac, L.Ac                 | Support                                  |
| Doris E. Reed, MS, L.Ac.                 | Support                                  |
| Yiwen Su, L.Ac. and Li Jin, L.Ac.        | Think solicit more input before deciding |
| Glenn Soja, L.Ac., LMP                   | Support All But Title                    |
| Eric Hartmann, DVM, M.Ac., L.Ac.         | Support                                  |
| Sarah Kennedy L.Ac                       | Support                                  |
| Robert D. Jensen, MD, MPH, Lac           | Support                                  |
| Scott A. Paglia, L.Ac.                   | Support                                  |
| Doug C Ko, L.Ac.                         | Support                                  |
| Howie H. Sun, MSOM., L.Ac.               | Support                                  |
| David Lerner, L.Ac., M.TCM.              | Support                                  |
| Michael Flynn, MAc, Lac                  | Support                                  |
| Tyler Martin, L.Ac.                      | Support                                  |
| Lynne Budde Sheppard, L.Ac.              | Support                                  |
| Tai Lahans, L.Ac., PhD                   | Support                                  |
| J Miranda Taylor, Licensed Acupuncturist | Support                                  |
| Joshua Lerner, L.Ac.                     | Support Except Title Change and Testing  |
| John F. Moore, L.Ac                      | Support                                  |
| John Donald, LAc.                        | Support Except Title Change and Testing  |
| Alicia Masiulis, MS, LAC, LMP            | Support                                  |
| Laura Kelley                             | Support                                  |
| Inger Johnson, L.Ac.                     | Support                                  |
| Jordan Van Voast, L.Ac.                  | Support                                  |
| Sandra Broberg, Lac                      | Support                                  |
| Dianna Dean, MTCM, Lac                   | Support                                  |
| Jeffrey Grossman, L.Ac.                  | Support                                  |

### **Patients or Others Who Did Not Specify Representation**

| <b>Name</b>   | <b>Position on Proposal</b> |
|---------------|-----------------------------|
| Wendy McCoy   | Support                     |
| Steven Milkis | Opposed                     |

|                            |                                         |
|----------------------------|-----------------------------------------|
| R.P. Gonzales              | Support                                 |
| Paula vanHaagen            | Support                                 |
| Margo A. Cunningham, M.Ed. | Support                                 |
| Linda J.                   | Oppose Recommending/Dispensing of Herbs |
| Leo & Janet Smith          | Support                                 |
| Donald Caldwell            | Support                                 |
| Margaret E. Cartwright     | Support                                 |
| Anna Schaad                | Support                                 |
| Camille S.                 | Support                                 |
| Joe Musielak DVM           | Support                                 |
| David D. Bluhm             | Support                                 |
| Natalie-Pascale Boisseau   | Support                                 |
| Carol Trasatto             | Support                                 |
| Deanna M Tregoning         | Support                                 |
| Leslie Whitecrow           | Support                                 |
| Beth Carter                | Support                                 |
| Liz Temir                  | Support                                 |
| Lee Ann Ko                 | Support                                 |
| Karen Castle               | Support                                 |
| Kathleen T. Hanna          | Support                                 |
| Christy S.                 | Support                                 |
| Steven P. Goodrich, P.E.   | Support                                 |
| Bill and Karen Campbell    | Support                                 |

### Other Health Care Providers

| Name                            | Position on Proposal                |
|---------------------------------|-------------------------------------|
| Sheila McGowan-Conoley CNM/ARNP | Concerns                            |
| Paula Snow, LMP                 | Opposed                             |
| Michael E. Werner, DMD          | Opposed to Title Change and Testing |
| KM Somol, ND                    | Opposed                             |
| Karin Kimbrough, LMP            | Oppose Addition of Massage          |
| Carmen L Czachor, DVM           | Opposed                             |
| Douglas Janachek, RPh           | Opposed                             |
| Steven M. Hall, MD              | Support                             |

## SECTION TWO: COMMENTS RECEIVED FROM GROUPS

### Physical Therapy Association of Washington (PTWA)

The PTWA sent comments on two areas that concerned them in this legislation.

- The term “exercise techniques” in section 1.4(l) because the term is not defined and is overly broad. They stated that without further clarification, and demonstration of appropriate education and training, they are opposed to including this in the acupuncture scope of practice.
- The term “heat and cold therapies” in section 1.4(q) because they stated they believe it should be clarified to include “only superficial hot and cold therapies that are applied topically to the skin, and do not penetrate beyond the dermal layer.” They gave examples such as hot packs, ice packs, ice massage, ice cuffs, and water baths. They stated that without clear evidence of education and training, they are opposed to acupuncturists performing “deep heat modalities that go beyond superficial, such as modalities applied through therapeutic ultrasound (1 or 3 megahertz), infrared, short wave diathermy, or induced current that deliver heat to target tissues under the dermal layer.”

## **Association of Washington Healthcare Plans (AWHP)**

The AWHP noted in their comments that the proposed scope of practice includes overlap and potential duplication of services with other disciplines. They list naturopaths, primary care physicians, ARNPs, PAs, RNs, chiropractors, nutritionists, physical therapists, and health educators. They request the sunrise process address the following questions:

1. The anticipated financial impact of the additional services.
2. The effects on healthcare coverage on purchasers, including individuals, families, and state and private programs.
3. How the proposed changes would promote cost-effective, evidence-based services that improve quality of care.

They also stated, in regard to administrative simplification efforts, that the proposed name change would require healthcare plans to re-write contracts, as well as numerous directories, Web sites, etc., and that the costs would be passed on to purchasers.

## **Advocates for the Advancement of Asian Medicine**

Their lobbyist, Ezra Eickmeyer, stated that the vague nature of the current scope of practice causes increased confusion with practitioners and may add unnecessary investigations. In addition:

- Defining practitioners as acupuncturists is “an imprecise label that is akin to describing a family physician as a pill prescriber.” Acupuncture is one modality of a system of medicine that would be more accurately described as either Asian or Oriental medicine.
- Asian medicine practitioners use diverse, traditional methods to diagnose a patient’s condition to determine treatment, including pulse diagnosis, tongue, abdominal, ear, and other examinations. Their practices vary based upon where they are from, such as Japan, China, or even by region of China. The scope of practice should list a few methods of diagnosis, but be vague enough to allow other lesser known methods. Practitioners should also have the ability to order MRIs and other tests from licensed medical professionals to assist in diagnosis. This would help lower costs to patients and give them quicker access to treatment, while not giving additional authority to acupuncturists.
- “The recommendation and sale of herbs is as much a foundation of Asian medicine as is acupuncture.” The current scope must be changed to recognize that the prescription and selling of herbs has been developed over thousands of years as a treatment unto itself, rather than the current interpretation that herbs must be used in conjunction with other modalities of treatment. Mr. Eickmeyer stated that he does not believe it was the intention of the writers of the original scope to tie herbs to other treatments. He stated his organization does not believe the law has been interpreted that way, but the new scope should clarify this to eliminate potential confusion. In addition, he stated that shop owners must maintain the ability to operate without a practitioner’s license.
- “...the testing standard used for people to obtain a license currently matches the national testing standards, but is at the discretion of the Secretary whether to use this standard. We think it would be best to have this standard written in to the scope of practice to ensure the long-term use of national standards in Washington as administrations come and go.”
- They concur with the addition of the new modalities, but recommend adding “tui na or Asian massage.”
- Acupuncturists should be eligible for Labor and Industry claims because they help the healing process for injuries.
- Practitioners holding dual licenses in multiple states should be able to display all their titles on Web sites, etc. as long as they reference the jurisdiction.
- They request the doctor referral section be changed to the following:  
RCW 18.06.140(2). When the acupuncturist sees patients and the patient reports or discloses to the acupuncturist that they have a potential emergency disorder, such as

cardiac conditions, acute abdominal symptoms, and such other similarly very serious emergencies, the acupuncturist shall immediately call 911 and have the patient taken to receive emergency care.

### **Washington Association of Naturopathic Physicians (WANP)**

The WANP shared the following concerns:

- They want to ensure these changes do not preclude naturopathic doctors, medical and osteopathic doctors, nurse practitioners, or other trained, licensed health care professionals who have insertion of solid needles (acupuncture needles) into the skin in their scope of practice from using this modality. “Doing so would unfairly infringe on the scope of practice of these healthcare professions. Specifically, if acupuncture is recognized as a modality rather than the title of a licensed healthcare professional, we would like it to be clear that insertion of solid needles and acupuncture are not equivalent modalities.”
- The education may not be adequate for urine, stool, saliva, and blood testing. Licensed practitioners will be held to a higher standard and expect them to have greater expertise in making medical decisions, even if these tests are readily available for unlicensed individuals.
- They have similar concerns about the education for recommending and dispensing of herbs, vitamins, minerals, and supplements.
- They suggest the addition of language in section 1.11(2) of the draft of “Naturopathic Physicians licensed under 18.36A RCW,” because they are also trained to diagnose and triage “potentially serious disorders.”

### **Seattle Institute of Oriental Medicine (SIOM)**

The president of SIOM wrote to state that SIOM’s primary concern is that major additions to a scope of practice should be tied to educational requirements, whether obtained as continuing education or in their initial education. They believe not having all practitioners trained and assessed in the primary areas of their scope of practice could lead to concerns about public safety and confidence that could harm patients and the profession.

### **Bastyr University**

The dean of the School of Acupuncture and Oriental Medicine wrote with the following concerns:

#### **In-Office Testing:**

- The rationale given is that this will allow the acupuncture provider the ability to determine the need for referral to a primary care physician. However, there are conflicting issues with this proposal relating to testing for blood glucose, cholesterol, homocystein, HbA1C, hematocrit and pregnancy. Any patient with a medical diagnosis pertaining to these conditions will need assessment for a primary care provider, with follow-up testing and care that requires a more advance level of interpretation that an acupuncturist can provide. Patients do not benefit from this proposal because the tests are already available to consumers, and a physician will have to repeat the tests because they need to manage these conditions. In addition, potentially life threatening ectopic pregnancies often test negative in home tests, and women need a blood test to monitor HCG levels and a physical examination by a physician.
- Primary care providers assess the need for testing based on presenting symptoms and their extensive Western biomedicine training. Acupuncturists receive just over 500 hours of Western medical training that is not designed to assist in the development of a Western diagnosis. Acupuncturists do not have an adequate level of Western medical training to safely and appropriately assess the need for testing, nor the level of training needed to identify possible false negative results.
- It is erroneous to assume that acupuncturists will provide testing at lower fees than other providers. Testing costs are directly related to the fee structure of the provider. You cannot compare the costs of in-office testing with a home testing kit against taking from a venous blood drawn that is

laboratory tested and analyzed by a physician. It is not likely third party payers will agree to pay for interpretation of these tests by acupuncturists, which will result in increased out of pocket expenses for patients.

#### **Recommendation and Dispensing of Vitamins:**

- The actual recommended level for vitamin ingestion is highly controversial, and is not part of the standard curriculum. An advanced study in biochemistry beyond what is currently taught in AOM schools would be necessary to prescribe vitamins responsibly. The current curriculum for vitamin ingestion trains practitioners on the role vitamins play in supporting health and the clinical presentation of vitamin deficiency.

#### **Title Change:**

- While sympathetic to the concerns that acupuncture is only a portion of what acupuncturists do, they list a large number of entities that use the title “acupuncturist” in legal statutes, by-laws, insurance policies, and educational and professional standards; including forty-three state professional organizations, over sixty acupuncture and Oriental medicine schools, insurance companies, etc. They also state that the term “Asian medicine” includes indigenous medicine of India, Tibet, Thailand, Phillipines and other countries in that region. It would be misleading to claim expertise in these traditions because acupuncturists are not trained in all the medicines of the region.
- While the term acupuncturist is not perfect, the public recognizes it. The term is clear to the general public, representing safe, effective, and licensed non-physician acupuncture providers. If this recognition is lost, it will impact the public’s ability to identify these providers and impact public safety.

#### **Bastyr University – Follow Up Comments After Hearing**

They stated that the additional comments represent additional conversations between the School of Acupuncture and Oriental Medicine at Bastyr University and WAOMA due to a miscommunication between these organizations regarding the process for stakeholder input previously used.

#### **In-Office Testing**

- They stated that this part of the proposal is in part a response by the WAOMA Board to the perception that under the current statute, acupuncturists are held to clinical recognition of undiagnosed biomedical conditions. They stated that in-office testing has been proposed as one way providers can help patients and protect themselves legally from exposure resulting from these conditions.
- They stated, “The current curriculum requirements for clinical assessment by WA state requires a minimum of 1,700 hours of training while in reality, accredited schools provide a range from 2,500 to 3,500 hours with the basic and bioscience training a minimum of 450-510 hours. This curriculum is designed to teach practitioners skills recognizing potentially onerous signs or symptoms requiring referral to primary or emergency care. This education in combination with a historically low rate of complaints against acupuncture providers in WA state is indicative that acupuncture providers are in fact recognizing potential disease states and making proper referrals.”
- They also stated, “If the acupuncture profession in WA state is now being held to a standard of care that is above and beyond our current scope in terms of responsibility for recognizing an undiagnosed condition, then a rationale for this expectation needs to be clearly articulated and the educational requirements to achieve this new standard need to be developed. If this mandate is in place, then simply adding in-office testing at a level that is currently available over the counter to consumers will not address the issue at hand leaving acupuncture providers vulnerable. What exactly is the expectation for acupuncture providers in this regard that is not being met by current training regarding appropriate referral?”

#### **Nutritional Supplementation**

They stated that the legal definition of “dispensing” is not appropriate as it pertains to vitamins, however they stated it is their understanding that there is active discussion going on to possibly remove this term.



They stated that the term “general recommendation” of nutritional items would align with current curriculum and common clinical practice for this profession.

### **Title Change**

They stated they recognize that WAOMA has invested significant time and resources to address the problematic structure of the current statute and the cultural challenges with the term Oriental medicine. They stated that this term has been challenging nationally for many years in professional and legislative arenas, with the outcome of continuing to use “Oriental medicine” as regulatory language and to identify the term as describing the overarching medical tradition that uses acupuncture as just one of a number of modalities. They stated that if Washington is going to consider a name change, the following questions must be answered:

- Will the name change enhance public recognition of the services this profession provides?
- Will the name change ultimately enhance the ability of this profession to continue to expand public recognition of the acupuncture profession?
- Will this name change have any negative impact on 3<sup>rd</sup> party reimbursement up to and including future state and federal reimbursements?

“In closing, the School of Acupuncture and Oriental Medicine of Bastyr University would like to commend the WAOMA board for its ongoing efforts to ensure that the statute adequately protects the work of the acupuncture professional community and for its efforts in ensuring that stakeholder input has been fully incorporated into this important process.”

### **Washington State Medical Association (WSMA)**

They wrote to state that this proposal creates many troubling issues:

1. Significantly increasing the scope of practice of acupuncturists, potentially bordering on the practice of medicine.
  - a. Proposed amendment to RCW 18.06.010(1) removes the reference to Oriental medicine when discussing diagnosis and treatment. This is quite similar to the definition of the practice of medicine found in RCW 18.71.
  - b. Including the use of lancets, rather than just needles, in acupuncture. Lancets are sharp-pointed and commonly two-edged surgical instruments used to make small incisions. Allowing acupuncturists to make incisions and use lancets (the historical use of lancets in acupuncture may need to be researched) appears to be a significant increase in scope of practice and may potentially be harmful to the public.
2. Blurring the distinction between Western medicine and acupuncture, potentially creating confusion to the public about the different types of health care providers.
  - a. Statement in bill that the legislature intends to “recognize that acupuncturists licensed... engage in a system of medicine...”
  - b. Changing the title to Asian medicine practitioner
3. The potential for allowing acupuncturists to engage in nutritional supplements and advice in a purely entrepreneurial manner.
  - a. Modifying RCW 18.06.010(k) from advice provided in conjunction with other acupuncture techniques, to “dietary advice based on Asian medicine,” could allow acupuncturists to provide dietary advice without having to perform and charge for associated treatment.
4. Addition of in-office testing.
  - a. This appears to be practicing medicine as well. In addition to using these tests for determining the need for referrals, acupuncturists would use them to “assist in treatment.” There is a potential for abuse and potential risk to public safety.
  - b. The proposal does not outline the specifics of the professional development class, only stating it will be a one-day class based on “industry standards.”

- c. Though the proponents state the tests they want to add are simple procedures, cleared by the FDA for home use, with low risk of erroneous results and harm, there is a risk. One example is if an unrecognized diabetic has a false-negative urine or blood glucose test, this may delay treatment and cause harm. Also, the list of CLIA-waived tests is 36 pages long. These tests could be used to guide acupuncture treatment, not just guide referral to medical doctors.
  - d. This would likely result in increased health care costs because: medical doctors may be unwilling to accept test results from acupuncturists that they weren't sure were performed correctly, and medical doctors would most likely repeat the tests performed or even order a repeat test due to concerns of medical malpractice liability. In addition, there will be a fee to the Department of Health for the CLIA waived status, the costs of which will most likely be passed on to patients or insurers.
5. Health education.
- a. The definition doesn't specify that education is to be based solely on the practitioner's Asian healing background. This could allow acupuncturists to provide education in all health care areas, even those in which they are not trained or licensed.

In addition, WSMA notes that massage, tui na, heat and cold therapies could impinge on the scopes of practice of massage therapists, chiropractors, physical therapists, and occupational therapists. They have no concerns regarding the addition of RCW 18.06.010(1)(l) breathing, relaxation and exercise techniques, or 18.06.010(1)(m) Qi gong.

### **American Massage Therapy Association-Washington Chapter (AMTA-WA)**

The government relations chair and 1<sup>st</sup> vice president wrote that the proposed changes should ensure that licensed acupuncturists/Asian medicine practitioners “may use physical modalities ONLY to the extent that they are complementary and in support of the therapeutic use of needling.” She stated that any reference to massage/bodywork must be preceded by the word Asian, such as Asian massage or Asian bodywork, and that it not be used as a stand along therapy.

## **SECTION THREE: APPLICANT RESPONSE TO PUBLIC HEARING COMMENTS AND QUESTIONS**

This document is the Washington Acupuncture and Oriental Medicine Association's (WAOMA) response to the public comments and panel discussion questions from the Acupuncture Sunrise Review hearing on July 30, 2009, at the Washington State Department of Health (DOH).

Since the deadline for submission for our comments as the applicant was the same as the public comments, we may not have been able to address all comments submitted by stakeholders as we have not had the opportunity to review all of them yet. There is additional information pending from national organizations and other sources that we will also submit as available. References to Asian medicine in this document refer to the Acupuncture/Oriental medicine in current statute (RCW 18.06). We have identified the main subject areas of concern from stakeholders and the panel and addressed them, by category, below.

### **Title Change**

We believe that our proposed title change will ultimately reduce confusion by the public. After a year and a half of extensive stakeholder work around the state and out of great consideration for the effort that will be required to re-brand our title. Acupuncture is currently just one of ten techniques in our scope of practice. The name is inherently limited and confusing to the public and other practitioners because it does not identify that we practice a system of Asian medicine utilizing multiple techniques. Until a title is

used that reflects our full scope, our profession will continue to be misunderstood by the public and other health care practitioners and thus the understanding of the breadth of our services will remain limited.

One of the challenges the profession faces with respect to its current title is that “Acupuncturist” turns off many people who have an aversion to needles. Many prospective patients are misled by the term, not knowing we offer other services that do not involve the insertion of needles. Using an overarching term for all our techniques that does not instill aversion to needles will help reduce this confusion.

We believe that in the long run this change in nomenclature will help strengthen the profession’s identity, affirm its positive attributes, and ultimately create greater clarity for the public and other professions. As demonstrated by the public comments, there is broad support and little opposition from our profession for our proposed changes.

- **Confusion between Asian and Western medicine systems:**

By changing our name from “Acupuncturist” to “Asian medicine practitioner” an even clearer distinction is made between Asian and Western medicine. Training for an Asian medicine diagnosis is required by WAC 246-802-050 and 246-802-060. Also, current WAC 246-802-120 requires that we make such distinctions clear in our informed consent that is signed by the patient prior to initial treatment.

- **Reference to Acupuncturist in bill draft:**

- o The bill draft language states that an “Asian Medicine Practitioner” may continue to refer to him/herself as an “Acupuncturist”. Refer to Sections 1.3 and 1.5 (4) of bill draft.

- **Concerns with the practice of “medicine” - Section 1.3:**

- o Diagnosis is made based on Asian medicine diagnostic principles and Western medicine diagnostic principles, as required by licensure requirements. Please refer to WAC 246-802-040, WAC 246-802-050 and WAC 246-802-060 and refer to NCCAOM certification requirements for licensure. [See Attachment 1 (NCCAOM Foundations of Oriental Medicine Module Content Outline) and Attachment 3 (NCCAOM Biomedicine Module Content Outline) of “Responses to Acupuncturist scope/Title Sunrise Review Follow Up Questions on Applicant Report.”]

- **Concern expressed that we are asking to be designated as primary care providers:**

- o Nowhere in our proposal does it state that we are seeking a change in designation to primary care provider, nor is this our intent.

### **Educational Requirements / Continuing Ed/ Grandfathering**

- **License Requirements for Acupuncturists:**

- o Pursuant to WAC 246-802-090, an applicant for certification as an Acupuncturist shall pass the examination offered by the National Certification Commission For Acupuncture and Oriental Medicine (NCCAOM) in acupuncture.
- o In order to take the NCCAOM exam, the applicant must meet NCCAOM requirements, which include having graduated from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) at the graduate level. Therefore NCCAOM and ACAOM requirements are the minimum requirements for licensure for newly certified applicants.
- o The NCCAOM standards are regularly updated. This assures that educational requirements for licensure in Washington state are continuously updated for newly certified applicants, providing an increasingly higher standard.

- **Curricular Requirements of the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM):**

The minimum length of the professional acupuncture curriculum must be at least three academic years (a minimum of 105 semester credits or 1905 hours). This must be composed of at least:

- o 47 semester credits (705 hours) in Oriental medical theory, diagnosis and treatment techniques in acupuncture and related studies,
- o 22 semester credits (660 hours) in clinical training,
- o 30 semester credits (450 hours) in biomedical clinical sciences, and

- o 6 semester credits (90 hours) in counseling, communication, ethics and practice management.
- **Western sciences - Requirements from WAC 246-802-040:**
  - o The training in Western sciences shall consist of forty-five academic credits based on the quarter system in which a credit equals ten classroom contact hours at the collegiate level of instruction or equivalent. These forty-five academic credits shall consist of the following:
  - o (1) Anatomy; (2) Physiology; (3) Microbiology; (4) Biochemistry; (5) Pathology; (6) Survey of western clinical sciences; (7) Hygiene; and (8) Cardio-pulmonary resuscitation (CPR).
    - Training in hygiene and CPR shall consist of a minimum of one academic credit hour or equivalent in each subject. Red Cross certification or documentation of equivalent training may be substituted for one academic credit hour in CPR.
- **Acupuncture sciences - Requirements from WAC 246-802-050:**
  - o The training in acupuncture sciences shall consist of seventy-five academic credits based on the quarter system in which a credit equals ten classroom contact hours at the collegiate level of instruction or equivalent. These seventy-five academic credits shall include the following subjects:
    - (1) Fundamental principles of acupuncture; (2) Acupuncture diagnosis; (3) Acupuncture pathology; (4) Acupuncture therapeutics; (5) Acupuncture meridians and points; and (6) Acupuncture techniques, including electroacupuncture.
- **Clinical training - Requirements from WAC 246-802-060:**
  - o A student must complete a minimum of five hundred hours of supervised clinical training consisting of up to one hundred hours of observation which includes case presentation and discussion.
    - A qualified instructor must observe and provide guidance to the student as appropriate, and must be available within the clinical facility to provide consultation and assistance to the student for patient treatments. Prior to initiation of each treatment, the instructor must have knowledge of and approve the diagnosis and treatment plan,
  - o "Patient treatment" includes:
    - Conducting a patient intake interview concerning the patient's past and present medical history;
    - Performing acupuncture examination and diagnosis;
    - Discussion between the instructor and the student concerning the proposed diagnosis and treatment plan;
    - Applying acupuncture treatment principles and techniques; and
    - Charting of patient conditions, evaluative discussions and findings, and concluding remarks.
- **NCCAOM Biomedicine Module:**
  - o To achieve ACAOM accreditation, schools must offer a minimum of 30 semester credits (450 hours) in graduate level biomedical clinical sciences, many schools exceed this requirement. According to our findings, the biomedicine module exam has been required by the NCCAOM since 2004 for certification in acupuncture. It is our understanding that all Washington state applicants who received NCCAOM certification after 2004 were required to meet this standard by the NCCAOM.
- **Continuing Education:**
  - o To reiterate our oral testimony, in the process of doing stakeholder work leading up to the creation of this proposal, we met with the Department of Health and were told continuing education requirements are not likely to be required nor implemented, in part because the complaint rate against our profession is very low, and also due to budget considerations. Most acupuncturists get continuing education on a regular basis, regardless.
  - o Because of the ACAOM and NCCAOM requirements, the Acupuncture programs in the United States do an excellent job of providing education that well prepares Asian medicine practitioners to care for patients, perform research, teach, etc. But the practice of Asian medicine, indeed any practice of medicine, is not static. Because of this fact, and the fact that science and technology

are certainly not static, it behooves all health care practitioners to attend continuing education seminars. Most of the continuing education courses offered for acupuncturists are NCCAOM approved courses. More commonly these days continuing education courses are attended by colleagues in other professions including acupuncturists, medical doctors, naturopathic physicians, nurse practitioners, etc., and for which the continuing education credits are the same regardless of the practitioner's license. (Attachments forthcoming.) Increasingly the course contents are including an integrated approach to the science of health care and Asian and Western medicines, including research and use of diet, nutrition and supplementation, and testing (laboratory and in-office). (Attachments forthcoming.)

- **Grandfathering:**

- o As is standard practice in every profession, longer-practicing Acupuncturists who may not have training up to current standards, will slowly phase out through attrition and aging. The majority of licensed acupuncturists in Washington state have been licensed in the last 10 years and meet NCCAOM standards.

### **In-Office Testing (blood, urine, saliva, stool)**

We are already held to modern medical standards, in that we are required to make a determination as to whether someone has a “serious condition” or “any such condition” and refer the patient to a physician (see WAC 246-802-110). We believe since we are held to modern standards in this way, it logically follows that we would have access to some basic modern tools to help make such a determination. These in-office tests are simple to perform, safe for patient and practitioner, and would help us determine when a condition is “serious,” when the symptoms as reported by the patient are not otherwise clearly “serious”. There are times when patients are more likely to follow our advice to follow-up with a physician when this recommendation is based on objective data. We believe the ability to utilize in-office testing will improve quality of patient care at a negligible cost to patients or the health care system.

- **Cost to patients of tests should be minimal:**

- o For example, at a local laboratory the patient price of a serum lipid (cholesterol) panel that includes triglycerides, HDL, LDL, and total cholesterol is \$99.00, which requires a venous draw of \$33.00. If done separately, those four tests would cost the patient \$142.00, plus a draw fee of \$33.00 per each. The Cholestech LDX , a point of care (in-office), CLIA approved, lipid (cholesterol) and glucose analysis, typically costs the patient \$25.00 per test, and requires no draw fee as the test is achieved via a drop of blood from a finger stick.
- o For example, at a local laboratory the patient price of a random/fasting blood glucose (sugar) test is \$41.00, and requires a venous draw of \$33.00.
- o For example, at a local laboratory the patient price of a urine analysis (urinalysis) via dipstick that tests glucose, bilirubin, ketones, specific gravity, blood, pH, protein, nitrite, and leukocytes, is \$33.00. The same point of care (in-office), urinalysis via dipstick typically costs the patient under \$10.00.
- o For example, at a local laboratory the patient price of the Genzyme OSOM Ultra Strep A Test is \$46.00. The same point of care (in-office), test can typically cost the patient approximately \$10.00.
- o Additional supporting documentation of CLIA-waived tests available upon request.

Summary of some common tests, costs, and time for results:

|                  | Laboratory Testing | Point of Care (In-office) Testing |
|------------------|--------------------|-----------------------------------|
| Lipid panel      | \$99.00            | \$25.00                           |
| Glucose          | \$41.00            | Included with lipid panel         |
| Venous draw fee  | \$30.00            | None required                     |
| Total            | \$170.00           | \$25.00                           |
| Time for results | Days to weeks      | In 5 minutes                      |
|                  |                    |                                   |
| Urine Analysis   | \$33.00            | Less than \$10.00                 |

|                  |               |                      |
|------------------|---------------|----------------------|
| Time for results | Hours to days | Within 2 - 3 minutes |
| Ultra Strep A    | \$46.00       | \$10.00              |
| Time for results | Hours to days | In 5 minutes         |

- o Further, pursuant to SHB 1869 “An act relating to transparency of health care cost information,” which goes into effect July 26<sup>th</sup>, 2009, all practitioners are required to provide an estimate of fees and charges for services upon patient request.
- o Testing would be voluntary based on the patient’s choice at the time the service is offered, and as with any procedure the patient has the right to refuse the procedure.
- o Since these CLIA-waived simple in-office tests are inexpensive, even if this results in some duplication of tests within the health care system, the cost to the health care system will be minimal.
- o This may even result in cost savings to the patient, particularly due to catching potentially serious conditions early, and therefore be cost beneficial to the health system.
- **Impact on other health care providers:**
  - o It is neither the effect nor the intent of our proposal to limit the use of tools, such as the use of solid needles, that are within any given profession’s scope of practice.
- **Dual license holders:**
  - o In response to dual licensed practitioners responding to MTS or other requirements: We agree that dual licensed practitioners with equivalent or greater license requirements would not need to duplicate requirements for in-office testing, and are amenable to adding that into the bill draft.

### **Pharmacopoeia/Dietary Advice**

For a breakdown in pharmacopoeia hours, we are listing an example of what Bastyr University (a school that meets ACAOM accreditation) requires for the Master of Science in Acupuncture, as to date We have not been able to identify the exact number of hours for Pharmacopoeia related courses required by ACAOM/NCCAOM, of the 450 hours required for the Biomedicine Module.

- Pharmacology overview for AOM (44 hrs)
- TCM whole foods (22 hrs)
- Nutrition and dietary systems (33 hrs)
- For a total of 99 hours.

Educational requirements also include the foundation classes in microbiology, biochemistry, and pathology, which are the building blocks for understanding pharmacology and often include information tailored to the profession’s practice in herbal/dietary advice and potential drug interactions. There are also requirements in Asian/Oriental medicine theory (47 semester credits/705 hours), which is the foundational theory of Asian medicine practiced through each modality, including dietary advice.

Pharmaceuticals and supplementations is 15% of the Biomedicine section of the NCCAOM Biomedicine Module. To further illustrate this, we have referenced the NCCAOM Study Guide pertaining to pharmaceuticals and supplementations in the Biomedicine Module (listed below), which is required for certification in Acupuncture:

- Classification of prescription and non-prescription (OTC) medications.
- Knowledge of major classifications and sub-classifications (e.g., anticoagulants, antidepressants, antibiotics, antilipidemic, antihypertensive, diuretics, corticosteroids, hormones, narcotics, drugs of abuse).
- Ability to reference medications according to brand or generic names common mechanisms of action, action and side effects of prescription and non-prescription (OTC) medications, including drugs of abuse.
- Knowledge of actions and common side effects of major drug categories (e.g. SSRI, beta-blockers, opiates, amphetamines).

- Knowledge of mechanisms of major categories (e.g., SSRI, loop diuretic, beta-blocker).
- Ability to reference common actions, precautions and side effects.
- Ability to recognize adverse drug reactions and make appropriate referral.
- Knowledge of routes of administration (e.g., intravenous, oral, subcutaneous).
- Knowledge of the effects of the use of tobacco, alcohol, and street drugs.

### **Supplements -Vitamins/minerals/herbs:**

Given that neither the RCW nor WAC defines “Dietary advice”, we refer to the usual and customary practice for acupuncturists. Dietary advice has included recommendations and selling of diet and nutrition, vitamins, mineral and herbal supplementation to the level that the practitioner is educated and competent for the past 24 years in Washington state with no complaints filed against an acupuncturist that we are aware of.

Nothing in our proposal negates the legal requirement for each practitioner to practice within his or her level of competency. Please refer to the Uniform Disciplinary Act, RCW 18.130.

With no complaints to date, 24 years of usual and customary practice, and given the 450 hours of biomedicine education required for NCCAOM certification in acupuncture, it is appropriate to more explicitly include Section 1.4(r) of the bill draft in statute so that the public is aware of our rights and responsibilities.

**Classification of dietary supplements:** (From the study guide for the NCCAOM exam in acupuncture, which reflects the ACAOM required curriculum, all required for licensure in Washington state)

- Knowledge of major classifications (e.g., vitamins, minerals, amino acids, antioxidants).
- Ability to reference supplements to a reliable source,
- Known mechanisms of action and side effects of supplements.
- Knowledge of actions and common side effects of major categories (e.g., fat soluble, water soluble vitamins, phyto-estrogens, minerals).
- Ability to reference common actions and side effects.
- Ability to recognize signs and symptoms associated with excess or deficient states.
- Ability to recognize adverse reactions to supplements (e.g., diarrhea associated with ascorbic acid, niacin flush).”

### **Concerns about the term “Dispensing”:**

- It is our intent to replace the word “dispensing” with the word “selling” in Section 1.4(r) of the bill draft so that the bill language reads “Recommendations and selling...”

### **Asian Massage**

The NCCAOM requirements for sitting for the acupuncture exam include having graduated from an ACAOM accredited program in acupuncture, all of which include the system of Asian/Oriental medicine (47 semester credits/705 hours in Oriental medical theory). The classes are taught at the graduate level, which is not the case in massage therapy programs.

To achieve ACAOM accreditation, schools must offer 30 semester credits (450 hours) in graduate level biomedical clinical sciences, which exceed the biomedical science requirements for becoming a licensed massage practitioner.

Our overall training also exceeds the requirements to become a massage practitioner, as our training includes: Anatomy, Physiology, Western Pathology, Asian/Oriental Medicine Pathology, Foundations in Asian/Oriental Medicine Theory, Asian Massage techniques such as Acupressure/Shiatsu and Tui Na. Moreover, clinical experience in these areas is included along with Acupuncture in the core clinical requirements for an Acupuncturist (22 semester credits/660 hours in clinical training). From our

perspective, we are very qualified to perform Asian massage. We plan to change the term “Massage” in Section 1.4(p) of the bill draft to “Asian Massage”, as it is a more accurate description of what we are trained in.

### **The Application of Heat and Cold Therapies**

We would be amenable to the use of the term “superficial hot and cold” so long as the below listed techniques are included with moxibustion, infrared, and electro-acupuncture, which are already in our scope of practice under RCW 18.06.010 and have been practiced safely since 1985.

- The training and testing that Acupuncturists receive through the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) covers the following techniques: [See Attachment 2 (NCCAOM Acupuncture With Point Location Module Content Outline, Section B(4)) of “Response to Acupuncturist Scope/Title Sunrise Review Follow Up Questions on Applicant Report,” and also at [http://nccaom.org/exams/pdfdocs/APLA\\_Content.pdf](http://nccaom.org/exams/pdfdocs/APLA_Content.pdf)]
  - o (a) Heating lamps, (b) Hydrocollator packs, (c) Microwave heat pads, (d) Chemical heat pads, (e) Herbal heating pads, (f) Spray and stretch (vapor coolant), (g) Ice packs, (h) Hot compresses, (i) Cold compresses, (j) Other methods.

### **Exercise Techniques**

- Concerns that the term “exercise techniques” found in Section 1.4(l) is not defined and is overly broad.
  - o It is our understanding that this term would be further defined in Rule within the bounds appropriate to the education of an Asian Medicine Practitioner, following the passage of our bill.



## **Appendix F: Examples of NCCAOM Approved Continuing Education Courses**

### **Herbs, Vitamins, Minerals and Dietary and Nutritional Supplements**

The applicant provided examples of continuing education courses offered to acupuncturists. Many of these courses involved the use of herbs, vitamins, minerals, and dietary/nutritional supplements. Here is a sampling of the courses that involve this topic along with some bullet points on key topics.

#### **The Next Revolution in GI Health Restoration**

- Understanding when to use specific enzyme supplements, as well as when probiotics should be used in conjunction with, or separately from, enzyme and stomach acid-supporting supplements.
- Understanding the clinical uses and dosing of melatonin, vitamins, A,B<sub>12</sub>, C, and D, folic acid, essential fatty acids, *Lactobacillus planatarum*, zinc, proteins, glutathione, and other antioxidants.

#### **Nutritional Medicine: Past, Present, and Future**

- Evaluate individual macro-, micro-, and phytonutrient requirements to successfully manage specific conditions and symptoms.
- Create patient-specific, therapeutic nutritional intervention plans.
- Develop new approaches to metabolic detoxification that improve clinical outcomes.
- Utilize new approaches for balancing hormone metabolism in women and men.
- Incorporate the latest understanding of the relationship between insulin resistance, hypertension, and heart disease into personalized nutritional protocols.

#### **Natural Solutions for Managing Menopause**

- Evaluate individual diet and supplement needs to improve hormone metabolism and detoxification.
- Create patient-specific protocols utilizing natural alternatives.
- Improve hormone metabolism in women suffering from menopausal symptoms, even if they are taking HRT.

#### **Understanding the Clinical Applications of Improved Metabolic Biotransformation**

Key topics include:

- Expanding your clinical tools to include new science-based approaches for promoting healthy physiological function and genetic expression through nutrition.
- How nutritional support for improved metabolic biotransformation can dramatically improve the health status of even the most intractable patients.

#### **Combining Functional Medicine with Traditional Chinese Medicine: Adrenal Fatigue, Hypothyroid and Insulin Resistance**

- TCM herbal applications.
- Nutritional therapies with rationale.

## **Appendix G: Rebuttals to Draft Report**

### **Brief Description of Rebuttals**

#### **Title Change**

1. WAOMA objected to the department's statement on page six of the report that they "represent a small number, approximately one fifth, of practicing acupuncturists..."
  - a. They stated they reached out to hundreds of non-members regarding a potential title change and found few who opposed it.
2. WAOMA requested the department change its position from neutral to support on the title change because:
  - a. The term acupuncturist can still be used under the proposal (responding to Bastyr's comment that acupuncturist is the accepted title).
  - b. Schools of Asian medicine and academic and professional organizations have been transitioning away from the term acupuncture toward Asian medicine.
  - c. The title change nearly passed the legislature, but there were objections to the term "Oriental."
  - d. Asian medicine and Asian medicine practitioner most closely align with the trends in academia and standards of practice.
3. Bastyr sent a new statement that the title "Asian" is inappropriate because it is inclusive of the Indian subcontinent, Siberia, central Asia, China, and Indo-China, and the training and practice of acupuncturists does not include medicines indigenous to these areas. They recommended "Eastern Medicine" as an option, but still feel the credential should remain LAc for consistency with 43 other states and with insurers.
4. An acupuncturist from Everett encouraged retaining the Licensed Acupuncturist official designation to avoid confusion for consumers and insurance providers, and to give the option for LAc's to advertise themselves as Asian medicine practitioners in addition to their LAc designation. He also asked that if a change in title is made, that it read "Licensed Asian medicine practitioner." He compared this title to nurse practitioner, which he states is a similarly accepted mid-level provider, and in consideration of future opportunities for inclusion in federal rural health recruitment and loan repayment programs.

#### **In-Office Medical Testing**

1. WAOMA requested the department support in-office testing because:
  - a. It is rapid, point of care testing that occurs in-office and without venous blood draws. They stated these tests are not "laboratory" tests as was erroneously stated in comments. Laboratory tests would denote levels of complexity not relevant to this proposal, interpretation and methodology.
  - b. They feel the statement that a diagnosis may result in referral to another health care provider is a good thing. The objective measure to share with a patient would give needed encouragement for the patient to go to a Western practitioner.
  - c. Many patients pay out of pocket for acupuncture, so the cost benefit of in-office testing by acupuncturists would be substantial.
  - d. They feel the proven benefit has been ascertained because there are cases where a practitioner has strongly suspected aberrant findings of previously undiagnosed conditions that have been confirmed by Western practitioners.

- e. They rebutted our statement that this testing does not meet the third criterion and state that by restricting entry to the public's access to rapid, in-office tests, they are being denied services they must seek elsewhere with additional time and productivity loss for patients and employers. These tests would provide objective data for need for referral, as well as objective data to assist the acupuncturist with direction of dietary advice and treatment modalities.
2. Another acupuncturist objected to the department's reasoning for not supporting the in-office testing. She objected to the following:
    1. The reasoning that the public already has access to these tests: She stated this is akin to a sanctioned monopoly.
    2. Could have potential harm: She feels the testing would do the opposite and increase safety of an already safe profession, and would strengthen their recommendation to see a Western provider if the need were there.
    3. Addition of costs: She stated this would save patients money because these tests are much cheaper than lab tests, and could reduce the number of office visits needed.
    4. Training not established: She stated she graduated from Oregon College of Oriental Medicine and this is included in their training. She stated that the fact that Washington schools are not teaching this because the NCCAOM biomedicine testing is not required is their issue and should not be reflective of all acupuncturist training.
  5. Bastyr requested the department remove height, weight, blood pressure and auscultation from in-office testing because they are unrestricted procedures. The applicant and an acupuncturist from Everett made a similar request, asking that the department clarify that this is within their scope of practice.

### **Additional Issue Not Part of Proposal**

Ezra Eikmeyer of the Advocates for the Advancement of Asian Medicine asked the department to consider changing the doctor consultation and referral section of the scope of practice to the following (We had not addressed his earlier request during the public comment period):

(1) Every licensed acupuncturist shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.

(2) When the acupuncturist sees patients ~~with~~ and the patient reports or discloses to the acupuncturist that they have a potentially ~~serious- emergency~~ disorders, such as cardiac conditions, acute abdominal symptoms, and such other ~~similarly very serious emergencies~~conditions, the acupuncturist shall immediately call 911, and have the patient taken to receive emergency care.~~request a consultation or recent written diagnosis from a physician licensed under chapter 18.71 or 18.57 RCW. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such physician, acupuncture treatment shall not be continued.~~

(3) A person violating this section is guilty of a misdemeanor.