REPORT OF THE SPECIAL ADVISORY COMMISSION ON MANDATED HEALTH INSURANCE BENEFITS

MANDATED COVERAGE FOR ACUPUNCTURE TREATMENTS ADMINISTERED BY A PHYSICIAN

(HOUSE BILL 2452, 1997)

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA

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December 12, 1997

To: The Honorable George Allen
Governor of Virginia
and
The General Assembly of Virginia

The report contained herein has been prepared pursuant to §§ 9-298 and 9-299 of the Code of Virginia.

This report documents a study conducted by the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission) to assess the social and financial impact and the medical efficacy of House Bill 2452, regarding mandatory coverage for acupuncture treatments administered by a physician.

This report is respectfully submitted on behalf of the remaining members of the Advisory Commission.

Jean W. Cunningham

Member, Virginia House of Delegates
Special Advisory Commission on
Mandated Health Insurance Benefits

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INTRODUCTION

During the 1997 Session of the General Assembly, the House Committee on Corporations, Insurance and Banking referred House Bill 2452 to the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission). House Bill 2452 was patroned by Delegate Robert Tata.

The Advisory Commission held a hearing on August 27, 1997, in Richmond to receive public comments on House Bill 2452. In addition to the patron, fourteen speakers addressed the proposals. Five physicians, three licensed acupuncturists, and four patients spoke in favor of the bill. Representatives of the Health Insurance Association of America (HIAA) and the Virginia Association of Health Maintenance Organizations (VAHMO) spoke in opposition to the measure. In addition, written comments in support of the bill were provided by the Acupuncture Society of Virginia (ASVA), the Virginia Pain Clinic, two physicians, and eight patients. The VAHMO, Virginia Manufacturers Association, the Virginia Chamber of Commerce, and Trigon Blue Cross Blue Shield submitted comments in opposition to House Bill 2452. The Advisory Commission concluded its review of House Bill 2452 on September 17, 1997.

SUMMARY OF PROPOSED LEGISLATION

The bill requires an accident and sickness insurance policy to provide coverage for acupuncture treatments administered by a physician. The bill applies to individual and group policies providing hospital, medical and surgical or major medical coverage on an expense incurred basis and subscription contracts and health care plans provided by health maintenance organizations. The bill applies to policies, contracts and plans delivered or issued for delivery or renewal after July 1, 1997. The bill does not apply to short-term travel, accident only, limited or specified disease policies, or to short-term nonrenewable policies of less than six months.

ACUPUNCTURE

Acupuncture is defined as the Chinese practice of insertion of needles into specific exterior body locations to relieve pain, to induce surgical anesthesia and for therapeutic purposes.

Needles are inserted at three or four specific sites for twenty to thirty minutes during a typical treatment. Acupuncture needles are solid, sterile, disposable needles about twice the diameter of a human hair. Due to the size and solidity, patients generally report only a fleeting, dull ache upon insertion. Initially, a patient is usually scheduled for a one-hour session once a week for

six to eight weeks. At that time, the effectiveness of the treatments can be evaluated and generally the time between treatments lengthened. Chronic conditions may require weekly treatments for a longer period of time.

In a June 29, 1997 *Richmond Times-Dispatch* article entitled "Puncturing Pain," a mannequin was pictured showing meridian points and channels in the human body. When stimulated correctly, the points can produce healing effects or at least pain relief. Acupuncturists believe that stimulating the points along the meridians will put the body back in balance. The acupuncture needles, inserted at the specific points along the meridians, stimulate peripheral nerves in muscles, sending messages to the brain to release endorphins and possibly alter energy balances in the body. Studies have indicated that acupuncture arouses endorphins, the natural pain relievers within the human body. Endorphins can also be released through the use of aspirin, other medications, and exercise.

The Code of Virginia, Chapter 29, § 54.1-2900 defines "acupuncturist" as an individual approved by the Board of Medicine to practice acupuncture. Other terms defined in Chapter 29 include licensed acupuncturist, physician acupuncturist, and practice of acupuncture. "Licensed acupuncturist" is limited to an individual other than a doctor of medicine, osteopathy or podiatry, who has successfully completed the requirements for licensure established by the Board. "Physician acupuncturist" means doctors of medicine, osteopathy, chiropractic and podiatry who have fulfilled the physician requirements for licensure to practice acupuncture established by the Board. "Practice of acupuncture" means 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, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, osteopathic manipulative techniques, the use or prescribing of any drugs, medications, herbal preparations, nutritional supplements, serums or vaccines.

LICENSURE REQUIREMENTS FOR PHYSICIAN ACUPUNCTURIST AND ACUPUNCTURIST

The Virginia Board of Medicine will license as physician acupuncturists only doctors of medicine, osteopathy, podiatry, and chiropractic. These practitioners must have previously demonstrated competence by passing the medicine/osteopathy, podiatry, or chiropractic licensure examinations. The applicant must have obtained at least 200 hours of instruction in general and basic aspects, specific uses and techniques of acupuncture, and indications and contraindications for acupuncture administration.

An applicant for licensure as an acupuncturist must pass a written examination and complete two years of undergraduate education and three years in an acupuncture program. The examination requirements for a licensed acupuncturist include passing the National Commission for the Certificate of Acupuncture (NCCA) written examination, passing the Practical Examination of Point Location Skills (PEPLS) test, and completing the clean needle technique (CNT) course as administered by the Council of Colleges of Acupuncture and Oriental Medicine.

The applicant's undergraduate education must include 18 semester or 24 quarter hours in biological sciences. An applicant must submit evidence of having a minimum of three academic years in length equivalent to 90 semester credit hours or 135 quarter credit hours that consist of full-time study in an acupuncture program accredited by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) or any accrediting agency approved by the Board of Medicine. An applicant must also submit evidence of successful completion of an acupuncture course of study equivalent to 1,000 hours of schooling. The course of study must include 700 didactic hours and 250 clinical hours.

UTILIZATION OF ACUPUNCTURE

A 1996 *Meridians* article entitled "Researching What Patients Say About Treatment" included results of an acupuncture survey. In the nationwide survey of acupuncture users: 91.5% reported disappearance of or improvements in their symptoms after acupuncture treatments; 84% used their medical doctors less; 79% reported that they used fewer prescription drugs; and 70% reported they had avoided surgery subsequent to receiving acupuncture care. Acupuncture users were: women (about two-thirds more than men); middle-aged (ages 30-50); living in urban or suburban settings; and mainly middle-class income level.

The Department of Health Professions, Board of Medicine reported that as of May 30, 1997, there were 94 licensed physician acupuncturists and 19 licensed acupuncturists in the Commonwealth of Virginia. The National Academy of Acupuncture and Oriental Medicine (NAAOM) estimated that by 1993, over 15 million Americans had received acupuncture treatments from over 8,000 practitioners, an increasing number of whom are being trained in domestic professional education programs.

FINANCIAL IMPACT

Respondents to a Bureau of Insurance survey provided cost figures that ranged from $.02 to $1.00 per month per standard individual policyholder and group certificate holder to provide the coverage required by House Bill 2452. Insurers providing coverage on an optional basis provided cost figures between $.20 and $10.00 per month per individual policyholder and group certificate holder.

A *Best's* Review March 1997 article entitled "Alternative Medicine Moves Into the Mainstream" cited the average cost for an acupuncture session as ranging from $50 to $100 depending on the problem and practitioner.

Information from the National Acupuncture and Oriental Medicine Alliance entitled "Acupuncture: Building the Case for Cost Effectiveness" contained evidence from controlled clinical trials. The article reported that acupuncture treatments resulted in three favorable outcomes: avoidance of surgery, fewer hospital visits and greater return to employment. According to the information from the trials, the treatments of acupuncture resulted in a cost savings of about $35,000 per patient.

MEDICAL EFFICACY

Information provided by the NAAOM entitled "Acupuncture Efficacy: A Compendium of Controlled Clinical Studies" presents the case for the inclusion of acupuncture as a principal therapy in the treatment of a variety of illnesses.

The document focuses on the published clinical trials of chronic pain, emesis (nausea and vomiting), stroke, respiratory disease and substance abuse. These were the five conditions chosen for submission to the U.S. Food and Drug Administration (FDA) in November, 1994 in support of the Citizens' Petitions to reclassify the acupuncture needle as a safe and effective medical device. On March 29, 1996 the FDA issued Reclassification Order, Docket No., 94P-0443, "Acupuncture Needles for the Practice of Acupuncture." The order reclassified acupuncture needles for the practice of acupuncture and substantially equivalent devices of this generic type into class II (no longer experimental), under the generic name: acupuncture needles. The FDA identified acupuncture needles as devices intended to pierce the skin in the practice of acupuncture by qualified practitioners as determined by the states.

The clinical studies in the use of acupuncture for relief of acute and chronic pain reflected the wide range of pain conditions for which acupuncture has been effectively applied. The conditions include headache, facial, dental, neck and low back pain, tennis elbow, osteoarthritis, renal colic, dysmenorrhea,

fibromyalgia, athletic injury, endoscopy-associated pain and post-surgical pain. For headaches and migraines, acupuncture was compared to standard drug therapy for treatment of migraine and muscle tension headaches. The findings indicated that acupuncture can produce better relief than standard drug therapy in patients with long-term histories of chronic headaches.

The acupuncture profession in the United States established the National Certificate Commission for Acupuncture and Oriental Medicine, formerly known as the NCCA. One of the primary reasons for setting the national standards was to protect the public from unqualified practitioners.

The potential harm to the public from acupuncture falls into two primary categories: the risk of accidental injury to internal organs and complications due to improper sterilization and lack of CNT, including the risk of spreading infectious diseases. The CNT Manual is published by the National Acupuncture Foundation and was developed in concert with the Centers for Disease Control. The manual serves as the basis for questions on the NCCA written examinations, as well as for the CNT Course, which is required for NCCA certification.

The results of a survey of 1,135 Norwegian doctors and 197 acupuncturists were reported in a 1997 article entitled "Adverse Effects of Acupuncture." The article stated that 12% of doctors and 31% of acupuncturists reported adverse effects from acupuncture, including pneumothorax, fainting, local infections, and increased pain. The article concluded that there should be an increased focus on who should practice acupuncture and when it should be used so that acupuncture can be presented as a relatively safe therapeutic measure.

CURRENT INDUSTRY PRACTICES

The State Corporation Commission Bureau of Insurance surveyed 50 of the top writers of accident and sickness insurance in Virginia regarding House Bill 2452. Thirty-five companies responded by the deadline of May 2, 1997. Five indicated that they have little or no applicable health insurance business in force in Virginia and, therefore, could not provide the information requested. Of the 30 respondents that completed the survey, 13 reported that they currently provide the coverage required by House Bill 2452.

Of the insurers noting that they do provide coverage, six insurers indicated that acupuncture treatment is covered if medically necessary. Of those six insurers, two companies noted that the provider of services must be licensed in the state and acting within the scope of that license. The Guardian Life Insurance Company of America stated that this procedure is subject to a

maximum of 10 visits per year. Connecticut General Life Insurance Company responded that this procedure must be performed by a licensed physician.

SIMILAR LEGISLATION IN OTHER STATES

According to information published by the National Association of Insurance Commissioners and the National Insurance Law Service, no state mandates coverage for acupuncture treatments whether administered by a physician or an acupuncturist. Currently five states (California, Florida, Maine, Nevada, and Oregon) require reimbursement for acupuncturists if the policy covers acupuncture.

REVIEW CRITERIA

SOCIAL IMPACT

a. *The extent to which the treatment or service is generally utilized by a significant portion of the population.*

No information was presented as to the number of Virginians using acupuncture treatment.

The Department of Health Professions, Board of Medicine reported that as of May 30, 1997, there were 94 licensed physician acupuncturists and 19 licensed acupuncturists in the Commonwealth of Virginia. The NAAOM estimated that by 1993, over 15 million Americans had received acupuncture treatments from over 8,000 practitioners.

b. *The extent to which insurance coverage for the treatment or service is already available.*

In a 1997 State Corporation Commission Bureau of Insurance survey of the 50 writers of accident and sickness insurance in Virginia, thirty companies currently writing applicable business in Virginia responded. Of that number, thirteen companies (43%) already provide the coverage required by House Bill 2452 to their Virginia policyholders.

c. If coverage is not generally available, the extent to which the lack of coverage results in persons being unable to obtain necessary health care treatments.

Insurers contend that coverage is generally available. Of the thirty respondents, thirteen companies (43%) already provide the coverage required by House Bill 2452 to Virginia policyholders. Of the insurers noting that they do provide coverage, six insurers indicated that acupuncture treatment is covered if medically necessary. Of those six insurers, two companies noted that the provider of services must be licensed in the state and acting within the scope of that license. The Guardian Life Insurance Company of America stated that this procedure is subject to a maximum of 10 visits per year. Connecticut General Life Insurance Company responded that this procedure must be performed by a licensed physician.

The ASVA stated that health insurance coverage for acupuncture is not generally available in the Commonwealth. Patients are discouraged from or find it impossible to use the benefits of acupuncture and Oriental medicine because it is outside the third-party payment system of health care and beyond their means. A *Best's* Review article entitled "Alternative Medicine Moves into the Mainstream" cited the average cost for an acupuncture session as ranging from $50 to $100 depending on the problem and practitioner.

d. If the coverage is not generally available, the extent to which the lack of coverage results in unreasonable financial hardship on those persons needing treatment.

Insurers contend that coverage is generally available if medically necessary.

A *Best's* Review article entitled "Alternative Medicine Moves into the Mainstream" cited the average cost for an acupuncture session as ranging from $50 to $100 depending on the problem and practitioner.

In written comments, proponents expressed dissatisfaction that acupuncture care is not generally covered by insurance. One proponent reported paying out-of-pocket in the range of $1,000 to $1,800.

e. The level of public demand for the treatment or service.

Information was not presented as to the level of demand in Virginia for acupuncture treatment. One physician testifying at the public hearing in favor of

House Bill 2452 stated that it would be difficult to determine how many patients in Virginia received acupuncture treatments.

f. The level of public demand and the level of demand from providers for individual and group insurance coverage of the treatment or service.

Five patients testified at the public hearing in favor of House Bill 2452, regarding coverage for acupuncture. Four patients explained that they experience frequent headaches and have found little relief from conventional medicine. One patient received insurance coverage for his treatment; others did not. All patients testifying supported the need for insurance coverage.

The VAHMO reported that a recent survey of its members indicated that seventeen out of eighteen responding HMOs do not provide coverage for acupuncture. VAHMO concluded that an insignificant number of purchasers and consumers are demanding the coverage.

g. The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts.

The level of interest of collective bargaining organizations in negotiating privately for inclusion of this coverage in group contracts is unknown.

h. Any relevant findings of the state health planning agency or the appropriate health system agency relating to the social impact of the mandated benefit.

The Advisory Commission is not aware of any findings of a state health planning agency or appropriate health system agency relating to the social impact of this proposal.

FINANCIAL IMPACT

a. The extent to which the proposed insurance coverage would increase or decrease the cost of treatment or service over the next five years.

It is not anticipated that the cost of acupuncture treatments would be significantly impacted by the proposed mandate.

b. *The extent to which the proposed insurance coverage might increase the appropriate or inappropriate use of the treatment or service.*

It is anticipated that the appropriate use of the treatment will increase some with the proposed mandate, especially for those who have failed to respond to other modalities inside and outside of conventional medicine.

c. *The extent to which the mandated treatment or service might serve as an alternative for more expensive or less expensive treatment or service.*

Proponents of the bill make the argument that acupuncture may be a substitute for more expensive treatments, including analgesics, physical therapy and chiropractic manipulation, surgeries, and pain management programs at major medical centers.

Others questioned why insurers would pay for more expensive treatment if acupuncture is as effective as conventional medicine.

d. *The extent to which the insurance coverage may affect the number and types of providers of the mandated treatment or service over the next five years.*

It is likely that the proposed mandate would affect the number and types of providers because the lack of direct reimbursement has been identified as a barrier for physician acupuncturists to practice in the Commonwealth of Virginia.

ASVA urged the Advisory Commission to recommend that House Bill 2452 be modified to authorize direct health insurance reimbursement for legally-authorized licensed acupuncturists and for physician acupuncturists.

e. *The extent to which insurance coverage might be expected to increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.*

The respondents to the State Corporation Commission Bureau of Insurance survey provided cost figures that ranged from $.02 to $1.00 per month per standard individual policyholder and group certificate holder. Insurers providing coverage on an optional basis provided cost figures from $.20 to $10.00 per month per individual policyholder and group certificate holder.

An increase in the administrative expenses of insurance companies and the premium and administrative expenses for policyholders is anticipated

because of the expenses associated with such things as policy redesign, form filing, claims processing systems and marketing, and other administrative requirements. It is anticipated that the proposed mandate would increase claims costs because those individuals currently paying out-of-pocket will immediately be covered.

f. The impact of coverage on the total cost of health care.

Some parties believe that the inclusion of acupuncture services may not, in all cases, reduce the overall total cost of health care. Other proponents anticipate an overall savings in total health care costs because of a reduction in "conventional" medical costs.

HIAA is opposed to additional mandates because of the incremental increases and the premium costs could have the potential to reduce the number of individuals that have the benefits of health insurance.

MEDICAL EFFICACY

a. The contribution of the benefit to the quality of patient care and the health status of the population, including the results of any research demonstrating the medical efficacy of the treatment or service compared to alternatives or not providing the treatment or service.

Information provided by the NAAOM, entitled "Acupuncture Efficacy: A Compendium of Controlled Clinical Studies," presents the case for the inclusion of acupuncture as a principal therapy in the treatment of a variety of illnesses.

The document focuses mainly on the published clinical trials of chronic pain, emesis (nausea and vomiting), stroke, respiratory disease and substance abuse since these were the five conditions chosen for submission to the U.S. Food and Drug Administration (FDA) in November, 1994 in support of the Citizens' Petitions to reclassify the acupuncture needle as a safe and effective medical device. On March 29, 1996, the U.S. FDA issued Reclassification Order, Docket No. 94P-0443, "Acupuncture Needles for the Practice of Acupuncture." The order reclassified acupuncture needles for the practice of acupuncture and substantially equivalent devices of this generic type into class II (no longer experimental), under the generic name: acupuncture needles.

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local infections, and increased pain. The article concluded that there should be an increased focus on who should practice acupuncture and when it should be used so that acupuncture can be presented as a relatively safe therapeutic measure.

One insurer noted that the medical research has not adequately established the efficacy of acupuncture treatments as to warrant widespread inclusion in the benefit package.

b. *If the legislation seeks to mandate coverage of an additional class of practitioners:*

1) *The results of any professionally acceptable research demonstrating the medical results achieved by the additional class of practitioners relative to those already covered.*

Not applicable

2) *The methods of the appropriate professional organization that assure clinical proficiency.*

Not applicable

EFFECTS OF BALANCING THE SOCIAL, FINANCIAL AND MEDICAL EFFICACY CONSIDERATIONS

a. *The extent to which the benefit addresses a medical or a broader social need and whether it is consistent with the role of health insurance.*

House Bill 2452 addresses the medical need of treating individuals with acute and chronic pain and other complaints. The benefit is consistent with the role of health insurance, although it is not considered conventional medicine.

b. *The extent to which the need for coverage outweighs the costs of mandating the benefit for all policyholders.*

Proponents believe that making acupuncture coverage mandatory will increase availability of treatment to those who could not ordinarily afford the out-of-pocket expense.

Opponents believe that the continual mandating of additional benefits is not good public policy and can have the ultimate effect of making health care too costly for individuals and small businesses least able to afford it. One insurer further noted that the medical research has not adequately established the efficacy of acupuncture treatments as to warrant widespread inclusion in the benefit package.

c. *The extent to which the need for coverage may be solved by mandating the availability of the coverage as an option for policyholders.*

The cost of a mandated offer of coverage would be expected to be higher than a mandate to include acupuncture due to adverse selection by those who had reason to believe they might need such treatment in the future. In the case of group coverage, the decision whether to select the optional coverage or not would lie with the master contract holder and not the individual insured. Therefore, it is possible that many insureds would not benefit from such a requirement.

RECOMMENDATION

The Advisory Commission voted unanimously (8 - No, 0 - Yes) on September 17, 1997 to recommend that House Bill 2452 not be enacted.

CONCLUSION

The Advisory Commission believes that based on the information presented, some coverage for the treatment is currently available, and a mandate for acupuncture is not necessary at this time.