

**REPORT OF THE
JOINT COMMISSION ON HEALTH CARE**

**ACUPUNCTURE STUDY
PURSUANT TO SJR 493**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 36

**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**

JOINT COMMISSION ON HEALTH CARE

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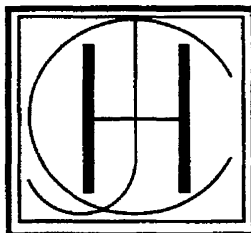
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Patrick W. Finnerty



Preface

Senate Joint Resolution (SJR) 493 of the 1999 Session of the General Assembly directed the Joint Commission on Health Care to examine direct access to acupuncture services. This resolution is shown in Appendix A. Specifically, SJR 493 directs the Joint Commission on Health Care to examine: (i) the availability of and direct access to acupuncturists by the citizens of the Commonwealth, (ii) certification or licensure of doctors of oriental medicine who have graduated from accredited or certified schools, and (iii) other issues which may affect accessibility.


Based on our research and analysis during this review, we concluded the following:

- the practice of acupuncture by physician acupuncturists and licensed acupuncturists is regulated by the Virginia Board of Medicine;
- there are less than 300 acupuncturists who are regulated by the Board of Medicine, but it appears that there may be some unlicensed practice of acupuncture within Virginia;
- physician acupuncturists are licensed physicians who have 200 hours of training in acupuncture;
- licensed acupuncturists are non-physicians who generally have completed 2,000 hours of study, passed two national examinations, and (if applicable) passed an English proficiency examination;
- the Board of Medicine previously proposed eliminating physician acupuncturists as a separately-regulated category within the medical profession, but enacting legislation was never introduced;
- the *Code of Virginia* requires an individual to be examined by a physician, but not necessarily receive a referral, prior to receiving treatment from a licensed acupuncturist; and
- the English proficiency requirement for licensure was cited as a potential barrier to access to licensed acupuncturists, particularly on the part of Asian-Americans.

A number of policy options were offered for consideration by the Joint Commission on Health Care regarding the issues discussed in this report. These policy options are listed on page 13.

Our review process on this topic included an initial staff briefing, which comprises the body of this report. This was followed by a public comment period during which time interested parties forwarded written comments to us regarding the report. The public comments (attached at Appendix B) provide additional insight into the various issues covered in this report.

On behalf of the Joint Commission on Health Care and its staff, I would like to thank the Virginia Board of Medicine for its cooperation and assistance during this study.



Patrick W. Finnerty
Executive Director

December, 1999

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I. Authority for the Study

Senate Joint Resolution (SJR) 493 of the 1999 Session of the General Assembly directed the Joint Commission on Health Care to examine direct access to acupuncture services. This resolution is shown in Appendix A. Specifically, SJR 493 directs the Joint Commission on Health Care to examine: (i) the availability of and direct access to acupuncturists by the citizens of the Commonwealth, (ii) certification or licensure of doctors of oriental medicine who have graduated from accredited or certified schools, and (iii) other issues which may affect accessibility.

This report is composed of three sections. This section briefly discusses the authority for the study and its organization. The second section discusses background on acupuncture in the Commonwealth. The third section discusses policy options.

II. Overview of Acupuncture in Virginia

Acupuncture Is Part of the Oriental Medicine Tradition

The practice of acupuncture is defined by Section 54.1-2900 of the *Code of Virginia* as:

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.

Acupuncture is part of a broader tradition of Oriental Medicine, that is practiced in various Asian cultures, including China, Korea, and Japan. According to the American Association of Oriental Medicine (AAOM), other oriental medicine techniques besides acupuncture include: herbal prescriptions, moxibustion (a type of heat therapy defined in Virginia as

being part of acupuncture but actually a separate type of treatment), dietary modifications, movement techniques, and therapeutic exercises.

Acupuncture originated in China approximately 2,500 years ago. According to the World Health Organization, there are 42 identifiable conditions that can be potentially treated using acupuncture. These include: respiratory ailments, pain and chronic pain conditions, and gastrointestinal disorders.

Educational Options for Acupuncture

Persons interested in becoming acupuncture providers in the United States can receive professional education from a diploma in acupuncture or oriental medicine up to the level of a graduate degree (the advanced degree typically conferred is a Master of Acupuncture and/or Oriental Medicine degree). In Asia, however, it is more typical to receive a doctor of oriental medicine degree. There are over 200,000 doctors of oriental medicine in Asia, primarily in Japan, Korea, and especially China.

While there are more than 50 institutes of oriental medicine in Asia, at present there are 37 North American educational institutions that belong to the Council of Colleges of Acupuncture and Oriental Medicine. There are 64 educational institutions in North America that belong to the National Acupuncture and Oriental Medicine Alliance. It appears that there are 25 educational institutions in the United States accredited by the ACAOM, which is the accreditation recognized by Virginia's Board of Medicine. An additional nine institutions in the United States are candidates for accreditation by the ACAOM. In addition, the University of California at Los Angeles Medical School has been active in teaching acupuncture to medical students.

Growing Popularity of Acupuncture and Alternative Medicine Generally

The November 11, 1998 issue of the *Journal of the American Medical Association (JAMA)* included an article on "Trends in Alternative Medicine Use in the United States, 1990-1997." This article found an increasing trend towards alternative medicine use in the United States, including use of acupuncture. The article observed that this trend is particularly notable given the relative lack of insurance coverage for alternative medicine therapy in comparison to mainstream Western medical treatments. The age and income cohort most likely to seek alternative medicine therapies

was college educated persons aged 35 to 49 with incomes above \$50,000 per year.

The Practice of Acupuncture is Regulated by the Board of Medicine

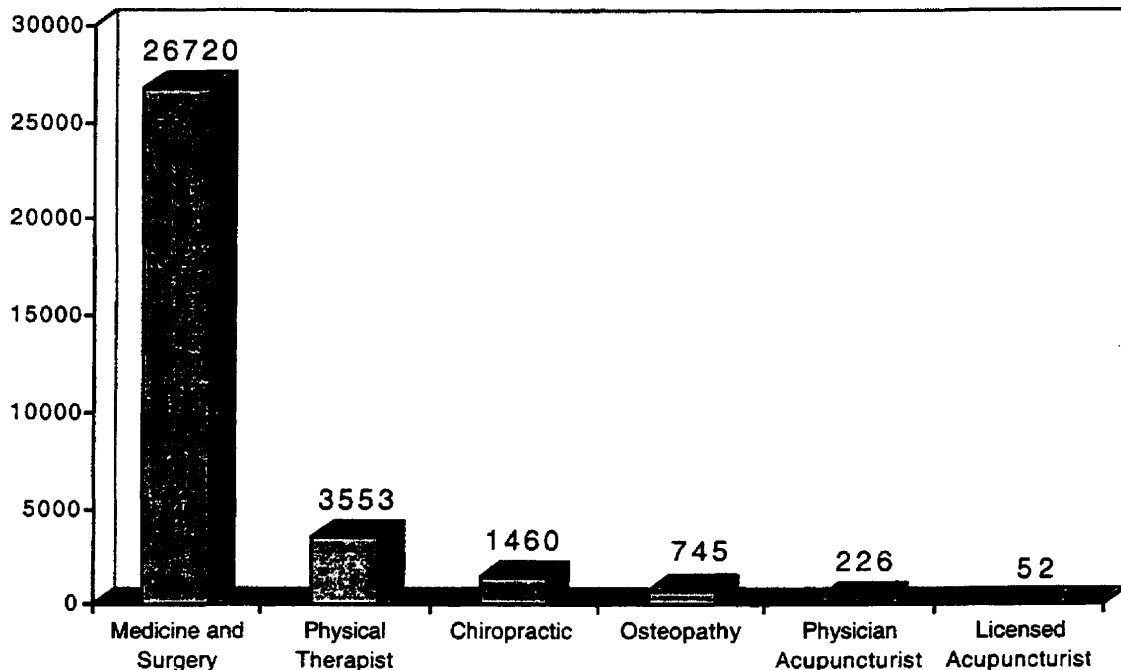
The *Code of Virginia* creates two categories of acupuncturists to be regulated by the Board of Medicine. Physician acupuncturists are defined in Section 54.1-2900 as “doctors of medicine, osteopathy, chiropractic and podiatry who have fulfilled the physician requirements for licensure to practice acupuncture established by the board.” A licensed acupuncturist, on the other hand, is defined in Section 54.1-2900 as “an individual other than a doctor of medicine, osteopathy or podiatry who has successfully completed requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic. Ac., and L. Ac.).

As of March 1999, there were 52 licensed acupuncturists and 226 licensed physician acupuncturists authorized to provide acupuncture services in the Commonwealth. By way of comparison, there are 26,720 doctors of medicine and surgery licensed in the Commonwealth. Figure 1 shows the number of licensed individuals for selected occupations regulated by the Board of Medicine.

Virginia Licensed Acupuncturists Are Heavily Concentrated in the D.C. Metropolitan Area

Licensed acupuncturists are heavily concentrated in Northern Virginia. Of the 52 licensed acupuncturists, 35 (67 percent) are located in Northern Virginia, the District of Columbia, or Maryland (Figure 2). Eleven percent of Virginia licensed acupuncturists live in Charlottesville, and thirteen percent live in other Virginia localities. Nine percent live out of state other than in Maryland or the District of Columbia (addresses of Virginia licensed acupuncturists living out of state include Ireland, New Jersey, Arizona, and Oregon).

Figure 1
Number of Licensed Individuals in Selected Professions Regulated by the Virginia Board of Medicine



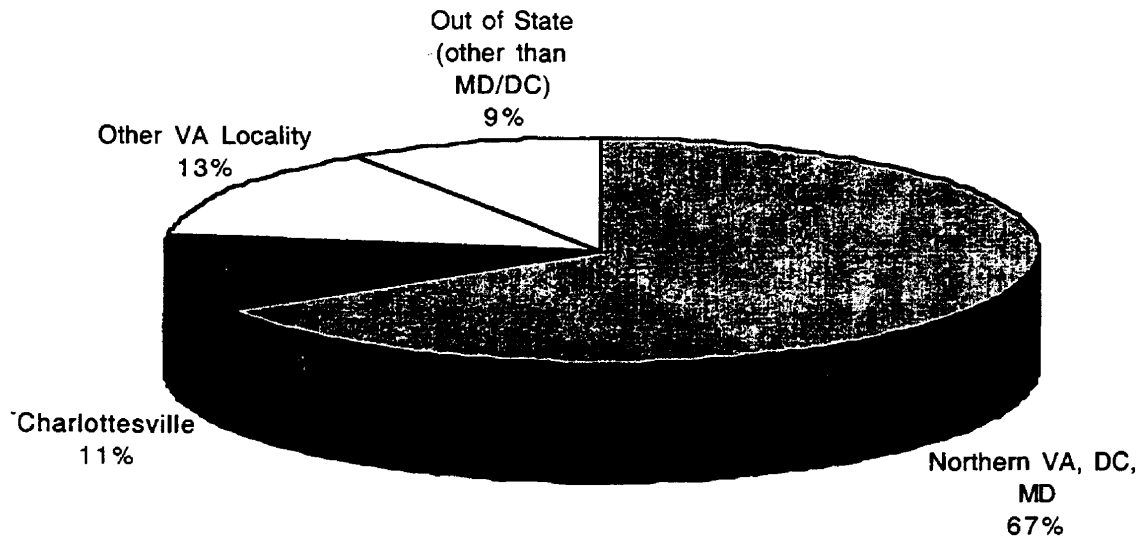
Source: Virginia Board of Medicine.

Advisory Board on Acupuncture

Section 54.1-2956.11 of the *Code of Virginia* establishes an Advisory Committee on Acupuncture to assist the Board of Medicine "regarding the qualifications, examination, licensure, and regulation of acupuncturists." According to the *Code of Virginia*:

The Advisory Committee shall be appointed by the Board of Medicine and shall be composed of seven members. Six of the members shall serve terms of four years each. Three of these six shall be doctors of medicine, osteopathy, or podiatry who are licensed to practice acupuncture in Virginia, and three of these six shall be licensed acupuncturists. The seventh member shall be a member of the Board of Medicine and shall serve at the pleasure of the president.

Figure 2
Geographic Locations of Virginia Licensed Acupuncturists



Source: Virginia Board of Medicine.

Licensure Requirements for Practicing Acupuncture in Virginia

Training requirements differ for physician-acupuncturist and licensed acupuncturists, according to regulations promulgated by the Board of Medicine. Physician acupuncturists are required to have a minimum of 200 hours of training in acupuncture.

Licensed acupuncturists must meet three general sets of requirements. First, they must meet certain educational requirements that vary, based on the type of educational institution attended by the applicant and when the education was completed. Applicants who obtained their acupuncture education prior to July 1, 1990 at an ACAOM accredited educational institution must provide "evidence of not less than 1,000 hours of schooling in not less than a continuous 18-month period." For applicants who completed their acupuncture education after July 1, 1990 at an ACAOM accredited educational institution, the applicant must submit evidence of having completed a minimum of three academic years

of study "equivalent to 90 semester hours or 135 quarter credit hours." Graduates of non-approved educational programs in acupuncture must: (1) submit evidence of at least two years of acupuncture study, and (ii) "have not less than four years of practice in the previous seven years as a licensed acupuncturist in another jurisdiction without evidence of disciplinary action."

In addition to the educational requirements, applicants to become licensed acupuncturists must meet a requirement to pass a series of two national examinations: the National Certification Commission on Acupuncture and Oriental Medicine written examination, and the Practical Examination of Point Location Skills test. In addition, applicants must complete the CNT course administered by the Council of Colleges of Acupuncture and Oriental Medicine. Third, an applicant to be a licensed acupuncturist "whose native language is not English and whose acupuncture education was also not in English" must submit evidence to the Board of Medicine of having achieved a passing score "on either the Test of Spoken English (TSE) or the Test of English as a Foreign Language (TOEFL)."

In contrast, the only licensure requirement for physician-acupuncturists beyond the requirements to be licensed as a physician, osteopath, chiropractor, or podiatrist is that "the applicant shall first have obtained at least 200 hours of instruction in general and basic aspects of the practice of acupuncture, specific uses and techniques of acupuncture, and indications and contraindications for acupuncture administration." There is also a caveat with regard to podiatrists that "a podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot."

The Board of Medicine Has Proposed Eliminating the Physician Acupuncturist Category

In 1998, the Board of Medicine voted to include within its proposed legislative package legislation that would have eliminated the category of physician-acupuncturist from the list of regulated occupations. Instead, physicians who use acupuncture would be regulated and disciplined, when appropriate, within the context of their medical, chiropractic, or osteopathic license. The Board of Medicine would still be able, if it so chose, to require certain levels of training for physicians conducting acupuncture.

The Board of Medicine's rationale in proposing the elimination of the physician acupuncturist category is that Virginia law and regulation does not single out any other type of treatment by physicians for a separate category of licensure. Viewed in this way, the licensure requirement for physician acupuncturists is analogous to requiring a separate license for physicians using any somewhat new or unconventional treatment method. The Board of Medicine's expressed preference was therefore to regulate acupuncture use by physicians within the scope of the overall universe of treatment approaches and modalities used by physicians.

While this proposed legislation was included in the Board of Medicine's legislative package, the administration chose not to introduce the legislation during the 1999 General Assembly. It is noted that, to date, there have been no disciplinary actions initiated against licensed physician acupuncturists (or licensed acupuncturists for that matter). A few cases have been pursued regarding individuals practicing acupuncture without a license.

One concern expressed about this proposal was that it not be used to eliminate any requirement for physicians performing acupuncture to be appropriately trained. Some licensed acupuncturists interviewed for this study expressed frustration that physicians are required to have significantly fewer hours of training in acupuncture and are not required to pass a national examination.

Patients Are Required to See a Physician Prior to Seeing a Licensed Acupuncturist

Until July 1, 1999, Virginians are required to obtain a referral from a licensed physician prior to seeking services from a licensed acupuncturist. Current law states that "prior to performing acupuncture, any acupuncturist who is not licensed to practice medicine, osteopathy, chiropractic or podiatry shall obtain written documentation that the patient has received a diagnostic examination from and had been referred by a licensed practitioner of medicine, osteopathy, chiropractic or podiatry with regard to the ailment or condition to be treated."

However, the 1999 General Assembly passed HB 2061, which was approved by the Governor (Chapter 779). This act, effective July 1, 1999, removes the requirement that patients obtain a referral. Instead, prior to obtaining services from a licensed acupuncturist, patients are required to have "received a diagnostic examination from a licensed practitioner of

medicine, osteopathy, chiropractic or podiatry with regard to the ailment or condition to be treated.”

During interviews conducted for this study, Joint Commission on Health Care staff became aware that one consequence of current statutory provisions is that Northern Virginia patients who do not wish to see a physician in Virginia prior to seeking services from a licensed acupuncturist will go to a licensed acupuncturist in Maryland. In fact, there are some cases where patients are treated at a licensed acupuncturist’s Maryland office, rather than the Virginia office, if the patients to be treated have not received a referral from a physician. Maryland does not currently require patients to see a physician prior to being treated by an acupuncturist (neither does the District of Columbia).

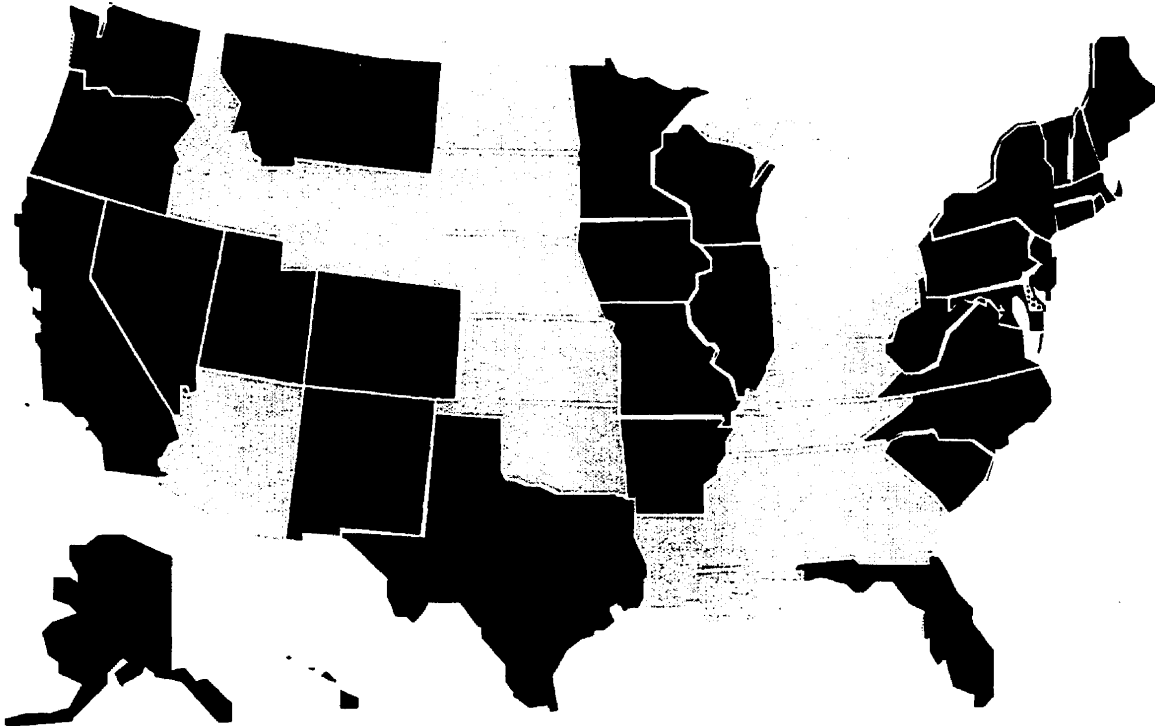
Thirty-Two States Currently Have Practice Acts for Acupuncture

Thirty-two states, including Virginia, currently have practice acts for acupuncturists, which, in effect, allow acupuncture to be practiced to some degree within those states. Figure 3 shows these states. It is noted that the qualifications required of acupuncturists and the scope of practice allowed for them varies considerably from state to state. For example, as already noted, Virginia requires patients to see a physician prior to being treated by an acupuncturist; this is not required in Maryland. The 18 states that do not have acupuncture practice acts typically allow only physicians to practice acupuncture.

Nationwide, Insurers Increasingly Offer Coverage for Acupuncture Services

A 1998 survey of employer-sponsored health plans in the United States by William M. Mercer, Inc. found an increasing trend towards insurers offering coverage of alternative medicine therapies, including acupuncture. Depending on the type of health plan, acupuncture services were covered by between nine and 19 percent of plans (Figure 4). This trend, however, is increasing towards health plans covering acupuncture in some circumstances. Most interview subjects contacted during this review suggested that acupuncture coverage is not a critical issue at this time, as there appears to be an active private pay market for these services.

Figure 3
States With an Acupuncture Practice Act
(Shaded States Have an Acupuncture Practice Act)



Source: National Certification Commission for Acupuncture and Oriental Medicine.

At present, most participating plans in the state employee health insurance program do not offer coverage for acupuncture services. Insurers that do not offer coverage appear to view acupuncture treatments as experimental or have specific contractual exclusions for acupuncture services. There are at least two managed care plans participating in the state employee health insurance program that will reimburse for acupuncture in some circumstances (pre-authorization from the health plan may be required for these services).

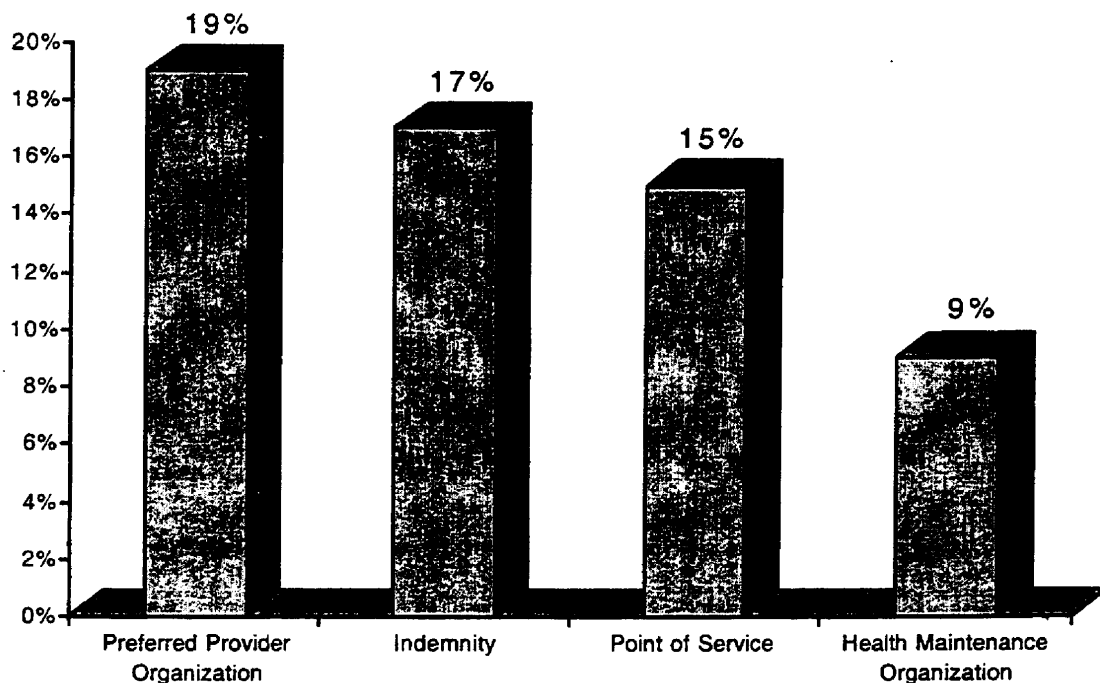
Potential Barriers to Receiving Acupuncture Services

Staff research for this study identified two potential barriers for individuals seeking acupuncture services in Virginia. These include:

- the requirement for patients to see a physician prior to seeking treatment from a licensed acupuncturist, and

- the requirement that licensed acupuncturists whose native language is not English and whose acupuncture education was not in English receive a passing score on the Test of Spoken English or Test of English as a Foreign Language.

Figure 4
Percentage of Employer Sponsored Health Plans Covering 500 or More Employees Providing Insurance Coverage for Acupuncture Services



Source: William M. Mercer, Inc.

As noted earlier, the requirement that patients see a physician prior to seeing a licensed acupuncturist was addressed partially by the 1999 General Assembly. As of July 1, 1999, instead of having to receive a referral from a physician in order to see a licensed acupuncturist, patients will only need to see the physician regarding the condition to be treated with acupuncture. The patient can then be treated by a licensed acupuncturist whether or not they obtain a referral from the physician (one of the concerns underlying HB 2061 was the perception that some

physicians would not give a patient a referral to an acupuncturist in any circumstances).

Even with the changes implemented by HB 2061, some licensed acupuncturists interviewed during this study indicated that the remaining requirement to see a physician acts as a barrier to obtaining acupuncture services without providing any benefit. A representative of the Medical Society of Virginia, on the other hand, indicated that this requirement is necessary to protect the public, because a patient may present to a physician with a symptom (for example back pain) that they would like treated with acupuncture that in fact indicates a more serious condition that needs to be treated with conventional Western style medicine.

The other barrier noted during this review is the requirement for proficiency in spoken English for licensed acupuncturists whose native language is not English and whose acupuncture education took place in a language other than English. Some concern was expressed that this requirement limits the ability of providers in Asian American communities to practice, even though the majority of their patient base is conversant in the native language of the provider (for example, Chinese or Korean). Staff from the Board of Medicine defended this requirement, stating that nothing in licensure regulations limits a licensed acupuncturist to treating patients who speak his or her language.

Unlicensed Practice of Acupuncture

Interviews conducted during this review suggested some concern with unlicensed practice of acupuncture in Virginia and speculation that this practice is not uncommon. While the scope of the study did not include documenting the degree of unlicensed practice of acupuncture, it is appropriate to note the concern about this that was expressed by interview subjects during the review. If there is, indeed, a problem with unlicensed acupuncture in Virginia, one reason for this may be a lack of information about the need for licensure, particularly in communities with large numbers of immigrants. One option, which would be relatively low cost, would be to direct the Board of Medicine to advertise in Asian American newspapers or periodicals regarding licensure provisions for acupuncture.

III. Policy Options

The following policy options are offered for consideration by the Joint Commission on Health Care. These options do not represent the entire range of issues that the Joint Commission on Health Care may wish to consider with regard to SJR 493.

Option I: Take no action.

Option II: Introduce legislation removing the current statutory requirement that patients first consult a physician prior to seeing a licensed acupuncturist.

Option III: Introduce legislation eliminating the physician acupuncturist category of licensure and requiring that physicians, osteopaths, and chiropractors who conduct acupuncture treatments must meet current regulatory requirements for training and education related to acupuncture.

Option IV: Introduce a budget amendment (language) directing the Board of Medicine to conduct an outreach initiative to notify individuals of the need for licensure in order to practice acupuncture. This initiative should include, but not be limited to, advertising in Asian language newspapers.

APPENDIX A

SENATE JOINT RESOLUTION NO. 493

Directing the Joint Commission on Health Care to examine the availability of and direct access to acupuncture professionals in the Commonwealth.

Agreed to by the Senate, February 4, 1999

Agreed to by the House of Delegates, February 15, 1999

WHEREAS, acupuncture is an ancient method of encouraging the body to promote natural healing and to improve functioning; and

WHEREAS, acupuncture is based on a system of energy in the body known as "chi" that needs balancing for optimal well being, otherwise known as the "yin" and "yang"; and

WHEREAS, the theory of acupuncture holds that the energy in the body travels through meridians that can become blocked and can be stimulated by inserting acupuncture needles into specific points on the body to increase, regulate and balance the flow of energy in the body; and

WHEREAS, the World Health Organization cites over one hundred different conditions treatable with acupuncture; and

WHEREAS, traditional oriental medicine is rapidly growing in acceptance in the West because its strongest feature is probably its ability to treat chronic conditions for which conventional medicine has no answers, no treatment, and no relief other than harsh chemicals with potentially unpleasant side effects; and

WHEREAS, most sources on acupuncture stipulate that it is not a replacement for modern medicine but for chronic conditions can provide, in many cases, relief not available in traditional Western medicine; and

WHEREAS, Virginia law has recognized the practice of acupuncture since 1991 when it legislated licensure for those who practice, required continuing education, and established an Advisory Committee on Acupuncture to be appointed by the Board of Medicine; and

WHEREAS, acupuncture is also recognized in the State as a viable treatment for substance abuse; and

WHEREAS, there has been no study to examine the use and availability of acupuncture by citizens of the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Commission on Health Care study the availability of and direct access to acupuncturists by the citizens of the Commonwealth. The study shall also, among other things, examine the certification or licensure of doctors of oriental medicine who have graduated from accredited or certified schools, and other issues which may affect accessibility.

All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request.

The Joint Commission on Health Care shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

APPENDIX B



JOINT COMMISSION ON HEALTH CARE

SUMMARY OF PUBLIC COMMENTS: ACUPUNCTURE (SJR 493)

- Option I:** Take no action.
- Option II:** Introduce legislation removing the current statutory requirement that patients first consult a physician prior to seeing a licensed acupuncturist.
- Option III:** Introduce legislation eliminating the physician acupuncturist category of licensure and requiring that physicians, osteopaths, and chiropractors who conduct acupuncture treatments must meet current regulatory requirements for training and education related to acupuncture.
- Option IV:** Introduce a budget amendment (language) directing the Board of Medicine to conduct an outreach initiative to notify individuals of the need for licensure in order to practice acupuncture. This initiative should include, but not be limited to, advertising in Asian language newspapers.

A total of 159 comments from individuals and organizations were received regarding the SJR 493 study of Acupuncture. The large volume of comments precludes individually listing commenters and summarizing each individual comment. Instead, comments are

grouped by the position that was expressed regarding the four policy options identified in the staff issue brief.

Comments in Support of Option I

Two comments were received supporting Option I. The Medical Society of Virginia (MSOV) and Christopher A. Hinnat, M.D., Medical Director, Physical Medicine and Rehabilitation, Johnston Willis Hospital supported Option I. Mike Jurgensen, commenting on behalf of MSOV, stated that the 1999 General Assembly had already expressed legislative intent regarding direct access to licensed acupuncturists and that "the study should include a more specific discussion and recommendation of the training and education requirements necessary for physicians practicing acupuncture in the absence of a special licensure category."

Comments in Support of Option II

A total of 97 form letters and 45 unique comments (142 total comments) were received supporting Option II. Most of the unique comments were from patients who had received acupuncture services. One comment supporting Option II was received from the President of the National Acupuncture and Oriental Medicine Alliance (James Blair).

The form letter stated:

I request that Senate Joint Resolution #493 of the 1999 session of the General Assembly introduces [sic] legislation to remove the current statutory requirement that patients first consult a physician prior to seeing a licensed acupuncturist.

I do not want to first see a physician in order to be diagnosed for a condition for which I would later seek acupuncture treatment. I prefer to have the choice for direct access to acupuncture treatment."

Comments in Opposition to Option III

Six comments were received from physician-acupuncturists, opposing Option III, elimination of the physician-acupuncturist category of licensure. Two of these comments also supported a continuing medical education requirement of 30 hours per year for physician-acupuncturists.

Comments in Support of Options II and III

Four comments were received supporting both Option II and Option III.

Comment in Support of Options II and IV

One comment was received that supported Options II and IV.

Comments in Support of Options II, III, and IV

Four comments, including Lynn Almloff, L.AC. on behalf of the Acupuncture Society of Virginia, were received supporting Options II, III, and IV. Of these, one comment, Jody Forman, MSW, Dipl.Ac., L.Ac., supported Option III with the modification that “physicians, and others who qualify, should be prohibited from advertising that they are “licensed” to practice acupuncture in the Commonwealth of Virginia.

**JOINT COMMISSION ON
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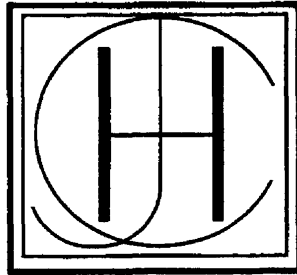
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