ACUPUNCTURE NOW FOUNDATION

BETTER HEALTH THROUGH BETTER INFORMATION

September 1, 2015

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
Fax: (510) 286-0687

Letter to Administrative Director, Destie Overpeck
Department of Workers' Compensation
Re: Medical Treatment Utilization Schedule
TITLE 8, CALIFORNIA CODE OF REGULATIONS,
SECTIONS 9792.24.2 and 9792.24.4

My name is Matthew Bauer, L.Ac. and I am President of the Non-Profit Acupuncture Now Foundation. Our mission is to educate the public, policymakers, and healthcare professionals about the practice of acupuncture by providing accurate information about acupuncture best practices. We appreciate the opportunity to provide input on the important subject of medical treatment guidelines as they relate to DIR's MTUS and especially the concerns over the use and misuse of opioid medications.

We suspect the Administrative Director will receive a great deal of testimony regarding the dangers of these medications and also compelling testimony regarding the relief from suffering these medications can bring. We urge you to consider that there is a completely drug-free alternative form of therapy – acupuncture – that is already approved for use within the MTUS but whose use, as we will show, should be greatly expanded.

There have been two landmark studies, one conducted in Germany(1) and paid for by their insurance industry the second in the U.S. (2) and funded by a grant from the National Institutes of Health, that both found acupuncture to be roughly twice as effective as "conventional care" for the treatment of chronic low back pain. The "conventional care" these studies referred to include the use of pain medications, especially opioid medications, and chronic low back pain is the leading condition for which those medications are prescribed.

Taken together, these studies should be seen as a major breakthrough in addressing the policies under consideration by your agency: Two high quality studies showing a safe, drug-free alternative to be twice as effective as the drugs that have health experts so alarmed in the treatment of the most common condition for which those drugs are prescribed. And yet, none of our public health officials have seemed

aware of this good news as expanding the role acupuncture can play in combating this drug epidemic is virtually never mentioned(3). The current MTUS has the following guideline for the use of acupuncture(4):

§ 9792.24.1. Acupuncture Medical Treatment Guidelines.

(a) As used in this section, the following definitions apply:
(1) "Acupuncture" is used as an option when pain medication is reduced or not tolerated…

Why on earth would a safer, drug-free therapy shown to be twice as effective as conventional care only be used as an "option" when "pain medication is reduced or not tolerated"? We ask that the MTUS guidelines be changed to allow acupuncture to be used as a first-line therapy before opioids or other pain medications are prescribed. It makes no sense for the twice as effective drug-free therapy to be relegated to an "option" after drugs.

Consider the following from a recent study published in the British Journal of Medicine(5):

"In the United States, opioid prescription for low back pain has increased, and opioids are now the most commonly prescribed drug class. More than half of regular opioid users report back pain."

And this from a 2007 Cochrane Database systematic review on opioid studies(6):

"Based on our results, the benefits of opioids in clinical practice for the long-term management of chronic LBP remains questionable."

And then this quote from a CDC publication "Prescription Drug Overdose-Understanding the Epidemic"(3):

"In recent years, there has been a dramatic increase in the acceptance and use of prescription opioids for the treatment of chronic, non-cancer pain, such as back pain or osteoarthritis." "People who take prescription painkillers can become addicted with just one prescription. Once addicted, it can be hard to stop."

The current MTUS guidelines; only allowing for the option of acupuncture after the use of these dangerous medications, is encouraging the use of a therapy found to be only half as effective as acupuncture and that can lead to addiction after just one round of prescription! We can appreciate that the Administrative Director or others within the Division of Workers' Compensation or the Department of Industrial Relations may have been unaware of the research on acupuncture presented here or there may be confusion over exactly how acupuncture works*. But now that this compelling evidence of a safer and more effective therapy has been brought to your attention, we look forward to working with DWC in finding ways to encourage the more robust use of acupuncture in fighting this terrible epidemic while enhancing our ability to ease suffering and we will follow-through with your office to see that these important changes are forthcoming.
Thank you,

Matthew Bauer, L.Ac.
President, the Acupuncture Now Foundation

3827 Emerald Ave., La Verne, Ca 19750
(909) 599-2347
acunowfoundation@gmail.com

*While the so-called "real" (verum) acupuncture did not significantly out preform the so-called "sham" acupuncture in the German and U.S. chronic low back pain studies, we believe this was due to under-treating with acupuncture, i.e. an inadequate "dosage". Several recent studies have found the frequency and duration of acupuncture plays a major role in its effectiveness. We believe if the acupuncture done in those studies had been done at the appropriate dosage, the "real" acupuncture would have been THREE times more effective than conventional care as that is what experienced Acupuncturists see in practice. A large randomized controlled trial published in The Lancet found that acetaminophen, the most frequently used pain medication in the world, is no more effective than a placebo for managing acute lower back pain and it is known to cause serious side-effects. Given the seriousness of the opioid epidemic, the fact that the world's most popular pain medication does not outperform placebo, and the call for exploring safer alternatives, we see no reason to hold back on acupuncture; the safer and more effective alternative, just because some questions remain about its exact mode of action.

References:

1). Haake M, Müller HH, Schade-Brittinger C, et al. German acupuncture trials (GERAC) for chronic low back pain. Arch Intern Med. 2007;167(17):1892-1898. At 6 months, positive response rate was 47.6% in the real acupuncture group, 44.2% in the sham acupuncture group, and 27.4% in the conventional therapy group.

2). Cherkin D, Sherman K, Avins A, et al. A randomized trial comparing acupuncture, simulated acupuncture, and usual care for chronic low back pain. Arch Intern Med. 2009;169(9):858-866 At eight weeks, mean dysfunction scores for the first three groups (individualized acupuncture, standardized acupuncture, simulated acupuncture) were 4.5, 4.5, and 4.4 points compared to 2.1 points for conventional care. Symptoms improved by 1.6 to 1.9 points in the first three groups and 0.7 in the conventional care group.

3). CDC Publication Prescription Drug Overdose-Understanding the Epidemic

Prescription Painkiller Abuse, Overdose, and Death

A big part of the overdose problem results from prescription painkillers called opioids. These prescription painkillers can be used to treat moderate-to-severe pain and are often prescribed following a surgery, injury, or for health conditions such as cancer. In recent years, there has been a dramatic increase in the acceptance and use of prescription opioids for the treatment of chronic, non-cancer pain, such as back pain or osteoarthritis. The most common drugs involved in prescription overdose deaths include:

Hydrocodone (e.g., Vicodin)
Oxycodone (e.g., OxyContin)
Oxymorphone (e.g., Opana)
Methadone (especially when prescribed for pain)

Prescription painkiller overdose deaths also often involve benzodiazepines. People who take prescription painkillers can become addicted with just one prescription. Once addicted, it can be hard to stop. In 2013, nearly two million Americans abused prescription painkillers. Each day, almost 7,000 people are treated in emergency departments for using these drugs in a manner other than as directed.

Taking too many prescription painkillers can stop a person's breathing—leading to death.

The Solutions
Safe Prescribing Practices

Problematic prescribing practices are a leading contributor to epidemic. Safe and informed prescribing practices and instituting sensible prescribing guidelines can help stop it.
State Policies

Cities and states across the country have taken steps to improve painkiller prescribing and prevent prescription misuse, abuse, and overdose. These efforts include regulating pain clinics, using systems to identify fraudulent prescriptions, and improving access to naloxone—the antidote to opioid overdose. Additionally, states can take steps to improve prescribing practices in public insurance programs, like Medicaid or Workers Compensation programs.

Prescription Drug Monitoring Programs

Use of state prescription drug monitoring programs gives health care providers information to improve patient safety and protect patients. At the same time, they preserve patient access to safe and effective pain treatment.

4). Chapter 4.5. Division of Workers' Compensation
Subchapter 1. Administrative Director--Administrative Rules
Article 5.5.2. Medical treatment utilization schedule
§ 9792.24.1. Acupuncture Medical Treatment Guidelines.
(a) As used in this section, the following definitions apply:
(1) "Acupuncture" is used as an option when pain medication is reduced or not tolerated, it may be used as an adjunct to physical rehabilitation and/or surgical intervention to hasten functional recovery. It is the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated, and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range of motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.
(2) "Acupuncture with electrical stimulation" is the use of electrical current (micro-amperage or milli-amperage) on the needles at the acupuncture site. It is used to increase effectiveness of the needles by continuous stimulation of the acupoint. Physiological effects (depending on location and settings) can include endorphin release for pain relief, reduction of inflammation, increased blood circulation, analgesia through interruption of pain stimulus, and muscle relaxation. It is indicated to treat chronic pain conditions, radiating pain along a nerve pathway, muscle spasm, inflammation, scar tissue pain, and pain located in multiple sites.
(3) "Chronic pain for purposes of acupuncture" means chronic pain as defined in section 9792.20(c).
(b) Application
(1) These guidelines apply to acupuncture or acupuncture with electrical stimulation when referenced in the clinical topic medical treatment guidelines in the series of sections commencing with 9792.23.1 et seq., or in the chronic pain medical treatment guidelines contained in section 9792.24.2.
(c) Frequency and duration of acupuncture or acupuncture with electrical stimulation may be performed as follows:
(1) Time to produce functional improvement: 3 to 6 treatments.
(2) Frequency: 1 to 3 times per week

(3) Optimum duration: 1 to 2 months
(d) Acupuncture treatments may be extended if functional improvement is documented as defined in Section 9792.20(e).
(e) It is beyond the scope of the Acupuncture Medical Treatment Guidelines to state the precautions, limitations, contraindications or adverse events resulting from acupuncture or acupuncture with electrical stimulations. These decisions are left up to the acupuncturist.
Note: Authority cited: Sections 133, 4603.5, 5307.3 and 5307.27, Labor Code. Reference: Sections 77.5, 4600, 4604.5 and 5307.27, Labor Code.
HISTORY
1. Renumbering and amendment of former section 9792.21, subsections (a)(2)-(a)(2)(E) to new section 9792.24.1 filed 6-18-2009; operative 7-18-2009 (Register 2009, No. 25).
2. Editorial correction of operative date in History 1 (Register 2009, No. 30).
3. Amendment of subsection (d) filed 4-20-2015; operative 4-20-2015 pursuant to Government Code section 11343.4(b)(3) (Register 2015, No. 17).

5). Opioids for low back pain
BMJ 2015; 350 doi: http://dx.doi.org/10.1136/bmj.g6380 (Published 05 January 2015)
Cite this as: BMJ 2015;350:g6380

Back pain affects most adults, causes disability for some, and is a common reason for seeking healthcare. In the United States, opioid prescription for low back pain has increased, and opioids are now the most commonly prescribed drug class. More than half of regular opioid users report back pain. Rates of opioid prescribing in the US and Canada are two to three times higher than in most European countries. The analgesic efficacy of opioids for acute back pain is inferred from evidence in other acute pain conditions. Opioids do not seem to expedite return to work in injured workers or improve functional outcomes of acute back pain in primary care. For chronic back pain, systematic reviews find scant evidence of efficacy. Randomized controlled trials have high dropout rates, brief duration (four months or less), and highly selected patients. Opioids seem to have short term analgesic efficacy for chronic back pain, but benefits for function are less clear. The magnitude of pain relief across chronic non-cancer pain conditions is about 30%. Given the brevity of randomized controlled trials, the long term effectiveness and safety of opioids are unknown. Loss of long term efficacy could result from drug tolerance and emergence of hyperalgesia. Complications of opioid use include addiction and overdose related mortality, which have risen in parallel with prescription rates. Common short term side effects are constipation, nausea, sedation, and increased risk of falls and fractures. Longer term side effects may include depression and sexual dysfunction. Screening for high risk patients, treatment agreements, and urine testing have not reduced overall rates of opioid prescribing, misuse, or overdose. Newer strategies for reducing risks include more selective prescription of opioids and lower doses; use of prescription monitoring programs; avoidance of co-prescription with sedative hypnotics; and reformulations that make drugs more difficult to snort, smoke, or inject.

6). Cochrane Database Syst Rev. 2007 Jul 18;(3):CD004959.
Opioids for chronic low-back pain.
Deshpande A1, Furlan A, Mailis-Gagnon A, Atlas S, Turk D.

Despite concerns surrounding the use of opioids for long-term management of chronic LBP, there remain few high-quality trials assessing their efficacy. The trials in this review, although achieving high internal validity scores, were characterized by a lack of generalizability, inadequate description of study populations, poor intention-to treat analysis, and limited interpretation of functional improvement.

Based on our results, the benefits of opioids in clinical practice for the long-term management of chronic LBP remains questionable. Therefore, further high-quality studies that more closely simulate clinical practice are needed to assess the usefulness, and potential risks, of opioids for individuals with chronic LBP.