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February 28, 2013

House Committee on Health Care
Representative Mitch Greenlick, Chair
Oregon State Capitol
900 Court Street, Room 453
Salem, OR 97301

Dear Representative Greenlick & Committee Members:

This letter is written in reference to HB 2996, which represents an effort to alter the definition of acupuncture in Oregon and attempts to broaden the scope of practice for licensed acupuncturists. The University of Western States is concerned that this bill represents an unsafe expansion of the scope of practice of acupuncturists substantially beyond their training and education and that their attempt to restrict the use of a generally available, broadly usable medical device to their licensees represents an inappropriate and frankly illogical restriction to thousands of other licensed health care practitioners in Oregon.

**Scope of acupuncturists:**
In Section 1(1)(b)(A), the bill attempts to redefine acupuncture to include "... **Asian bodywork and massage, exercise therapy and related therapeutic methods and manual therapy.**" This statement is overly vague and strays substantially from those procedures taught in acupuncture programs.

The term "massage" is defined under ORS 687.011. Massage is a licensed profession in Oregon, and licensees are required to amass over 700 hours of education focused on anatomy and physiology, (western) pathology, kinesiology and massage technique instruction, practice and clinical application under supervision to gain eligibility to apply for licensure. Within the required curricula for massage therapists are hundreds of hours of technique instruction and supervised practice that simply do not exist in acupuncturists' education. This substantial education and clinical supervised training culminates in a series of licensure exams that individuals must pass to become licensed massage therapists. Acupuncturists have none of these things and thus it is unsafe and inappropriate to allow such expansion in the absence of demonstrated equivalence in this skill as other practitioners who practice these procedures.

The term "exercise therapy" is vague and open to interpretation. Acupuncturists receive only education in the use of Qigong and Tai Chi- two very specific forms of therapeutic movement within the acupuncture paradigm. Many other forms of therapeutic exercise, including rehabilitation procedures and other procedures require substantial biomedical knowledge and diagnostic ability which are not currently a part of the acupuncture educational structure. Thus, the acupuncturists cannot be considered competent to prescribe or oversee the application of these procedures, yet the language of SB 2996 would allow it.

The term "manual therapy" is defined under http://www.oregon.gov/OBCE/publications/emebc_nomenclature.pdf and is also used elsewhere under the scope of practice in other professions. This "term of art" includes hundreds of named and unnamed techniques and procedures, nearly all of which are predicated on the establishment of a biomedical (western, or non-acupuncture) diagnosis or diagnostic impression. The establishment of a biomedical diagnosis by acupuncturists is beyond their scope of practice. The focus of their Western Science training is communication with other health care professionals for collaboration of care. Acupuncturists are prohibited from interpreting radiology or laboratory (urine or blood) results or from using biomedical diagnostic codes, except where they relate to pain and symptoms. The following passage from the December 2009 Acupuncture Advisory Committee meeting of the Oregon Medical Board clarifies some of this limitation:

> **Coding Guidelines for Acupuncturists**
> Debra Mulrooney, LAc, stated that the Oregon College of Oriental Medicine is receiving an increase in the number of questions from students and licensed acupuncturists regarding the use of diagnostic codes in charting. Ms. Mulrooney further stated that many acupuncturists in Oregon desire clear coding guidelines from the OMB. It was moved and seconded that:
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> **The Acupuncture Advisory Committee recommends the Oregon Medical Board adopt the statement that since acupuncturists cannot make a western medicine diagnosis they cannot use diagnostic codes unless the diagnosis has been previously established by a medical professional licensed to make that diagnosis. Acupuncturists can use codes which are related to pain and symptoms.**

The diagnoses necessary to formulate treatment plans and to implement specific therapeutic maneuvers in manual therapy are established through focused and/or global orthopedic/biomechanical/functional medical assessments as a part of deriving differential diagnoses and diagnostic impressions. Practitioners must have this type of knowledge and skill base to determine appropriateness, safety, effectiveness and acceptability of a specific technique or approach from a litany of possible techniques and must possess the skills to apply those techniques. If acupuncturists' desire the right to do these things, they have a duty to demonstrate competence through verifiable training to achieve the right to practice them under their licenses- which they have not done and currently demonstrate no evidence of doing through approved programs (or unapproved programs for that matter- see http://www.oregon.gov/omb/lacapplicationpacket/western_science_doc_lac.pdf)

Chiropractic physicians receive approximately 780 hours of didactic and formal laboratory instruction focused on neuromusculoskeletal (including orthopedics and neurology) just to establish basic competency with assessment and diagnosis of these types of conditions. This does not include their clinical internships, which require real-time application of these competencies on patient populations on a daily basis. Conversely, acupuncturists receive 72 hours of "western structural diagnosis". It is unknown what intensity of exposure they receive in their internship programs with these types of assessments- our guess is that western structural diagnosis is not a priority in the day-to-day management of acupuncture patients.

Chiropractic physicians receive over 800 hours of didactic instruction in palpation and functional musculoskeletal assessment and manual therapy techniques ranging from basic soft tissue manipulative techniques through rehabilitation procedures, active care strategies and

ultimately demonstrating mastery of multiple types of manipulation procedures for nearly every articulation in the body. In contrast, acupuncturists receive 240 hours of Tui Na, Shiatsu and Oriental therapeutic massage.

The use of massage and manual therapy procedures are sufficiently risky that they require licensure to apply, which is predicated on substantial training and expertise. The acupuncturists' versions of these procedures and is limited and focused- just as their current scope of practice allows. Their education matches their scope. Acupuncturists do NOT possess sufficient skill or training to provide safe, competent "massage" or "manual therapy" in the broad and diverse interpretations portended by SB 2996. Even acupuncturists will tell you that Tui Na and Shiatsu are substantially different procedures from other types of massage and manual therapy.

Manual therapy as used by licensed physicians and physical therapists requires thousands of hours of didactic, laboratory and clinical practice education- none of which exists in acupuncture education. These are the expected levels of ability the public has. This bill represents a placing of the cart before the horse in competency demonstration. The University of Western States is opposed to this strategy.

**Use of Solid Needles:**
The attempt to restrict the use of any "solid needles" to acupuncturists is an absurd attempt to restrict the practice of MD, DO, DC, ND, RN, PT, PA, and possibly other health care providers' access to solid needles for legitimate diagnostic and treatment procedures. Suture needles, electromyography needles, certain lances, probes and other tools and devices common to nearly every facet of health care fall under this broad definition. Acupuncture needles also fit under this definition and are used often for biomedical diagnostic and treatment procedures. Acupuncturists did not invent solid needles and are not the only professionals that use them. Performing acupuncture is not the only effective application for these types of needles- they can and are used for the treatment of other conditions outside the acupuncture paradigm. Thus to suggest that acupuncturists be granted authority to restrict other responsible health care providers from use of this tool is patently foolish.

Put another way, the use of a 32-gauge solid filament needle (acupuncture needle) by a physician for the obliteration of a trigger point (a non-acupuncture problem) is just as appropriate as an acupuncturist using that same type of needle for stimulation of an acupuncture point- they are both demonstrating focused, defined, justified and competent application of the tool- and they are trained professionals using diagnostic and therapeutic intent unique and consistent with their training, licensure and competency in that application.

The University of Western States believes that this language is a direct attempt to prevent some health professions in Oregon (including chiropractic physicians) from practicing health care as they are duly licensed and trained to do. In addition to the general potential for restriction of needles used by chiropractic physicians in OR we believe this also represents an *attempt* to prevent other practitioners from being able to perform a technique called "dry needling". Dry needling is a procedure in which a solid, very thin (32-gauge) needle is used to stimulate a trigger point in a muscle, tendon, ligament or fascial plane. Acupuncturists have attempted to argue in the past that this procedure is a form of acupuncture. Acupuncture as defined in its own rules does not make reference to lancing pathologies with the acupuncture needle- which is precisely what dry needling accomplishes. Even the presence of anatomical

overlap between an acupuncture point and a trigger point would not be covered in the existing definition of acupuncture point stimulation.

Comparing acupuncture to dry needling, the only thing they have in common is the use of a thin gauge, solid filament needle- which is a tool used by many health care providers for many applications, including dry needling. Dry Needling is a therapeutic technique designed to address a specific patho-anatomical lesion. That lesion is not an acupuncture point, nor is treating it designed to address any "yin", "yang" or "Qi". Many health care disciplines already perform dry needling on their patients and the chiropractic profession is currently in the process of ensuring this procedure, with proper training and competency demonstration, is within its scope. The Acupuncture profession is now using the Oregon legislators to argue their "turf battle". Be assured that favorable consideration of this language ultimately harms patients through restricting their access to appropriate care.

HB 2996 represents an unwise attempt to engage the Oregon legislature into granting rights that aren't grounded in training and competency. Further, trying to wrestle away a needle from the rest of the health care community is futile and, in the opinion of the University of Western States, a disservice to patients everywhere. These are unsafe and unproductive intentions, and the University of Western States stands opposed to HB 2996 for those reasons.

This letter is respectfully submitted on behalf of the University of Western States.

Thank you for your consideration.

Sincerely,

Gary D. Schultz, DC, DACBR
Special Assistant to the President
University of Western States