Delegate Joseline A. Pena-Melnyk, Chair
Health and Government Operations Committee
Room 241 House Office Building
Annapolis, Maryland 21401

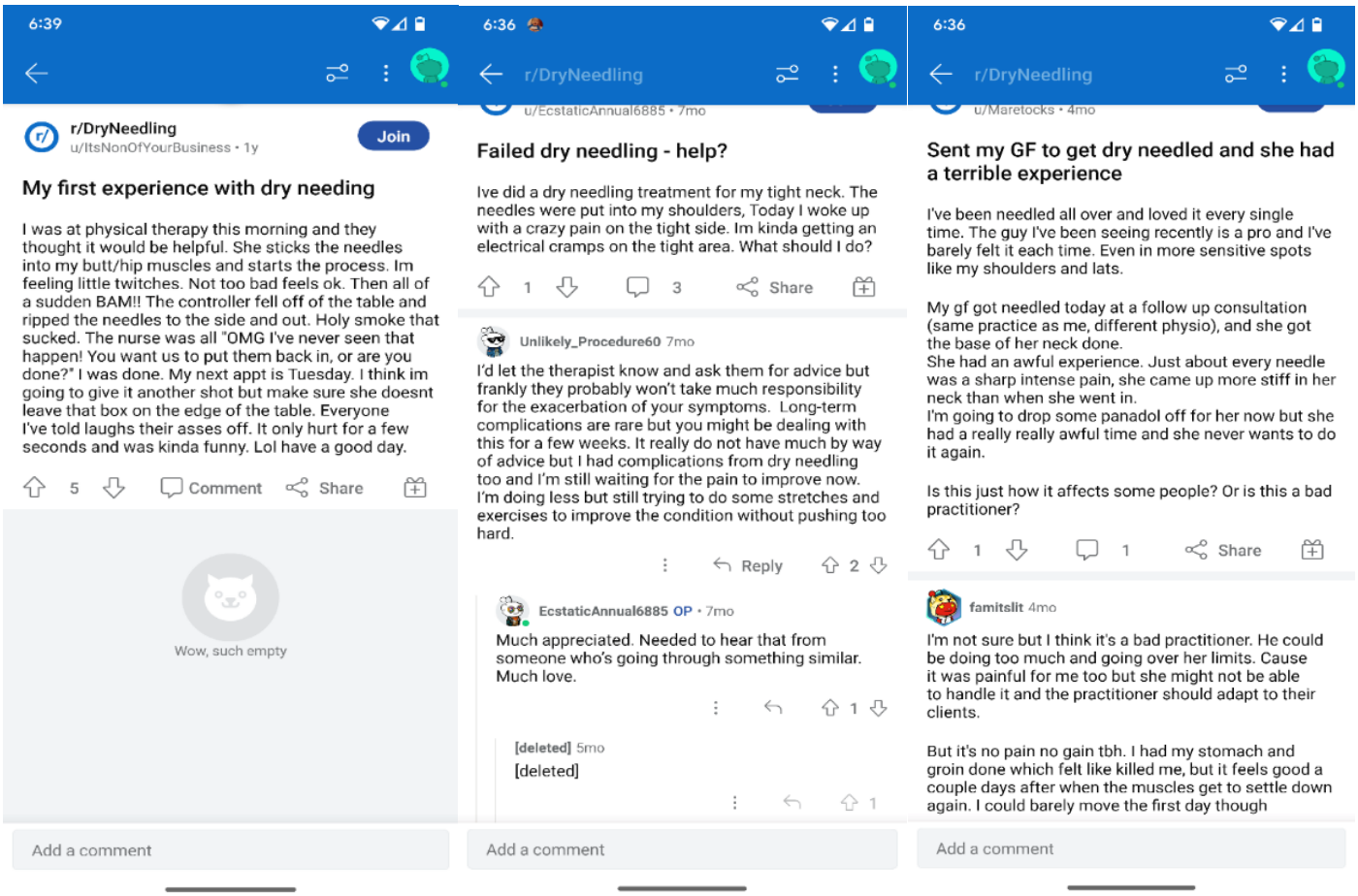
February 13, 2023

Re: HB0172 – UNFAVORABLE – Health Occupations – Licensed Athletic Trainers – Dry Needling Registration

Dear Chairwoman Pena-Melnyk and Members of the Committee,

On behalf of the 900 patients that I treat as a Maryland Licensed Acupuncturist, I am writing to you in OPPOSITION to the expansion of acupuncture being added to the scope of Athletic Trainers in our state. We agree with the Athletic Trainers in their recent petition seeking support for the efforts, that without adding "dry needling" to their scope, it will hinder their ability to provide the **highest quality of care** for their patients. However, we disagree that a "4-day course with over 25 hours of hands on training that include physical therapists and chiropractors," who also do not learn more than 80-100 hours of training in acupuncture or dry needling techniques and theory, is a benchmark for high quality delivery of acupuncture services.

Acupuncture is an invasive procedure that if performed by those without extensive training will ultimately put the public at risk for procedural complications that include, but are not limited to, pneumothorax. This dangerous condition can lead to collapsed lungs, difficult surgeries that require extended medical attention, and can lead to fatalities. Although there does not seem to be enough official data to show adverse incident reports, there are PLENTY of informal reports of adverse incidents seen on social media and public forums (see some screenshots below). The Athletic Trainers did not include this information in their bills, which is either an admission of the gravity of performing an invasive procedure which they should be trained for; or worse: they didn't know the information to list for contraindication beyond bruising, swelling and localized pain at the injection site.



By comparison, Traditional Asian Medicine practitioners, who are Licensed Acupuncturists by statute, require a minimum of 3-4 YEARS of didactic/clinical training in a whole health medical system that is practiced globally and throughout the United States. Prior to our Practice Act, Maryland acupuncturists were jailed and fined for practicing surgery without a medical license. If it was important to safeguard the public from an invasive procedure then, it should be equally important now that others want to perform it without learning the medical system in which the technique serves the greatest purpose for better health outcomes. Also of note, MDs who perform acupuncture in the state (and nationwide,) receive 300 hours of training and are a much more extensive education in medical theory in general. Why would we accept anything less for patients from other practitioner groups with less medical education in this arena?

We not only understand, like all other healthcare professionals seeking to add acupuncture to scope, that acupuncture works, we also understand how and why. If sports teams, the US Olympic circuit, or anyone else wants to deliver the highest quality of care when PERFORMING ACUPUNCTURE, they should hire acupuncturists or develop a strong referral network with the more than 1100 Acupuncturists currently licensed by the state of Maryland, or the 35,000 Licensed Acupuncturists nationwide. We are not denigrating the education that Athletic Trainers, Physical Therapists, or Chiropractors receive when learning their craft.

However, they are dismissive of the extensive training licensed acupuncturists receive. By denouncing the cultural root of dry needling (also known as acupuncture), structural racism is being encouraged if it becomes a practice by athletic trainers without the full acupuncture training. By saying that the practice of dry needling is NOT based on Chinese medical theory, it is saying that the providers who want to practice dry needling are willing to take shortcuts from an ancient form of medicine, making it their own, and getting paid more for it. The fee schedules for dry needling versus acupuncture services demonstrate the inequality of the reimbursements. Dry needling reimbursement is higher for multiple muscular treatments performed in less than 30 minutes than acupuncture treatments performed for at least 30 minutes.

Trading jabs: CMS changes coverage status for dry needling, acupuncture

by Julia Kyles, CPC on Feb 14, 2020
If the news that Medicare will cover acupuncture for chronic low back pain piqued your interest, review the guidelines for dry needling and acupuncture codes. CMS flipped the coverage status for codes **20560-20561** and **97810-97814** from non-covered to active effective Jan. 21, according to CMS 100-04, Change Request 11661, published Feb. 14.

We sent a few questions to Medicare about the coverage update, including when CMS will publish coding guidance for the service, what practices should do with any claims for services before the change request's April 6 implementation date and whether P-Stim and other electroauricular acupuncture systems will be covered, so stay tuned. In the meantime, take in the full descriptors and national non-facility reimbursement rates for the codes:

20560 Needle insertion(s) without injection(s); 1 or 2 muscle(s) – $25.74.
20561 Needle insertion(s) without injection(s); 3 or more muscles – $38.32.
97810 Acupuncture, 1 or more needles; without electrical stimulation, initial 15 minutes of personal one-on-one contact with the patient – $37.03.
97811 Acupuncture, 1 or more needles; without electrical stimulation, each additional 15 minutes of personal one-on-one contact with the patient, with re-insertion of needle(s) (List separately in addition to code for primary procedure) – $28.47.
97813 Acupuncture, 1 or more needles; with electrical stimulation, initial 15 minutes of personal one-on-one contact with the patient – $41.15.
97814 Acupuncture, 1 or more needles; with electrical stimulation, each additional 15 minutes of personal one-on-one contact with the patient, with re-insertion of needle(s) (List separately in addition to code for primary procedure) – $33.91.

CMS has not created a medically unlikely edit (MUE) for the dry needling codes, but the MUE for the acupuncture codes is currently set at 0. Watch the the April MUE update for a change.

Here are a few more coding points from the 2020 CPT manual:

- Count face-to-face time for the acupuncture codes. The clock starts when the clinician applies the needles, stops if she leaves the room, and starts again when she returns.
- You may report acupuncture with and without electrical stimulation for the same patient on the same day, but you can only report one primary code. For example, if the doctor performs 15 minutes of acupuncture with electrical stimulation followed by 15 minutes of acupuncture without, you would report one unit of 97813 and one unit of add-on code 97811.
- Dry needling is bundled into the acupuncture codes. Because medical coding is never simple, you may see dry needling referred to as trigger point acupuncture. Make sure you know what the doctor or other clinician did to avoid errors.

If better health outcomes are the purpose of their expansion of scope, then they should be equally sincere about the education and training needed to keep the public safe. Please, members of the House Health & Government Operations Committee, **PUT YOUR CONSTITUENTS' SAFETY FIRST. Vote NO** on HB0172. Athletic trainers need to go to acupuncture school. If not, tell the stakeholders to WORK TOGETHER and REFER to one another to ensure patient best practices for safety and have no negative impact on any of the practitioner groups or the patients they provide medical services for.

With great opposition and sincerity,

Dr. Cindy Tran, D.Ac., L.Ac., Secretary, Maryland Acupuncture Society
Maryland Legislative District 21
Laurel, MD 20707
cindy@aihgwellness.com