

AOM Under Attack: Lessons from Active Illinois Practitioners

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Within the past two years, Illinois acupuncturists have faced three major efforts by other health professions to dismantle acupuncture practice by licensed acupuncturists in Illinois. These attacks began "under the radar" of the acupuncture profession, and most acupuncturists had no clue that our profession was in any danger.

What is happening in Illinois is happening across the country. I would like to share with you our experience in Illinois, with the hope that acupuncturists across the nation can develop effective methods to safeguard our profession.

Both veterinarians and physical therapists have mounted nationwide, state-by-state attacks on Oriental Medicine and/or complementary and alternative medicine (CAM). Each is going about it in a different manner, and we must understand their strategies and tactics if we are to successfully face down their challenges.

Veterinarians

Veterinarians, as a profession, are not very interested in practicing CAM. However, based on the tactics they use to fight CAM, it appears that they consider it a threat to their hegemony as the profession that treats non-humans (animals). In other words, they believe that they are the only profession that should be treating animals. Their legislative efforts are an attempt to make this so. Consequently, they are not trying to claim CAM and AOM as within their scope of practice. Rather they are trying (1) to become the gatekeepers who decide whether or not their patients can have CAM and AOM, and (2) to supervise the professionals who provide these services to their patients.

Over the years, veterinarians have attempted to amend their own practice acts to require other professionals who treat animals to do so only under the supervision, referral, or written referral of a veterinarian. The exact wording varies by state and by target profession. Their piecemeal strategy was largely non-effective because professions that were watching the process were able to fight the state-by-state efforts. **The Model Veterinary Practice Act** now includes complementary, alternative, and integrative therapies (CAM) within the scope of veterinary practice. The Model Act implies that another licensed professional will be providing care to animals as an assistant to the veterinarian at the veterinarian's request and under the veterinarian's supervision, regardless of the other professional's training or scope of practice. This is of particular concern for acupuncturists who are highly trained in AOM as well as in the treatment of animals.

In Illinois we are fortunate to have an animal owners association that placed an amendment into the Veterinary Medicine Practice Act, allowing animal owners to choose the professionals they wish to be treating their animals as long as certain information is provided and consents are signed. When the veterinarians attempted to alter this amendment, the animal owners association swung into action to protect their amendment.

Luckily, an acupuncturist is a member of this owners association. She recognized the threat to AOM and alerted the Chairman of our Board of Acupuncture. Together they mobilized the umbrella group that speaks for all the acupuncture professional associations in Illinois, the Illinois Acupuncture Federation. In the end, four people – three acupuncturists and the acupuncture lobbyist – successfully prevented language changes to the Veterinary Medicine Practice Act that would have required licensed

acupuncturists to practice acupuncture on animals only under the supervision of or with written referral from a veterinarian.

The main tactics that the veterinarians are using include:

- making changes only to their own practice acts, a strategy that is less likely to draw attention to their actions,
- trying to change many of their practice acts concurrently in order to increase the number of battle fronts and drain the resources of those they wish to control,
- attempting to make themselves gatekeepers to AOM and CAM, which would abolish independent practice on animals by other, more highly trained professions, and
- making small language changes that are seemingly inconsequential but that profoundly change the meaning of the statute.

Without the intervention of the acupuncturists and their lobbyist, the veterinarians would have succeeded in Illinois, in spite of the involvement of the animal owners association, because the veterinarians had so obfuscated the language of the owners' amendment and other portions of their Act that the owners did not understand that their own amendment had been gutted.

Physical Therapists

Physical therapists have a totally different goal and, hence, a different set of tactics, though they have also chosen a nationwide attack strategy. In contrast to veterinarians, physical therapists wish to incorporate acupuncture into their scope of practice. Their method is to request advice from legal counsel of state regulatory boards as to whether "dry needling" or "intramuscular manual therapy" is prohibited in their scope of practice. Like the veterinarians, they are inquiring about their own practice acts, an action which immediately limits the discussion to their own regulatory boards.

Acupuncturists hear about these inquiries by luck, as happened in Illinois. A member of the Board of Acupuncture found an announcement on a physical therapy continuing education website to the effect that "dry needling" had been approved by the Physical Therapy Board, and that this company was preparing to offer "dry needling" courses to Illinois physical therapists.

The acupuncture board member brought the problem to the chairman of the acupuncture board, who was able to put the issue on the agenda of the next acupuncture board meeting, at which time the Board as a whole was able to present a well-prepared and documented argument against "dry needling" to counsel at the Department. The two acupuncture board members and the acupuncturist who heads the Illinois Acupuncture Federation collected position papers and statements against "dry needling" from AAAOM, ACAOM, NCCAOM, Illinois Acupuncture Federation, and one of the physical therapists' own malpractice carriers.

Again, three acupuncturists spearheaded the defense, drawing on the expertise and voice of major state and national acupuncture associations. As more Illinois acupuncturists become aware of the situation, they are becoming more involved in their profession. A new organization, The Coalition for Safe Acupuncture Practice, founded by acupuncture students and professionals, staged a protest rally outside the venue where the first "dry needling" course was held for physical therapists and began a website (www.csap.us) to provide information to practitioners and patients. Because this issue is still in process, we will provide an update in a future article.

The main tactics being used by the physical therapists include:

- keeping the decision within their own profession,
- arguing that "dry needling" is a Western anatomical practice,
- claiming that they are not attempting to do acupuncture,

- agreeing not to call what they do "acupuncture" and thereby claiming that they are not violating the Acupuncture Practice Act, and
- presenting their reasonable-sounding arguments to attorneys, who are not necessarily aware of the wider implications of their decisions involving other practice acts, rather than to acupuncturists, who are able to identify the flaws in their arguments.

When PTs do "dry needling," they are using *ashi* points, which they have relabeled as "trigger points." Furthermore, a prominent "dry needling" instructor, Yun-tao Ma, promotes on his website (www.dryneedlingcourse.com/meet-your-teacher) a book he has written on "Western acupuncture," which he calls "contemporary dry needling." In Illinois, the physical therapists claim not to be doing acupuncture, but their technique and choice of points to needle comes out of *Sun Si-Miao's* work on *ashi* points from the 6th century CE.

Keep in mind that the legality of "dry needling" varies by state and is dependent on how the state's Acupuncture and Physical Therapy Practice Acts are written.

Physical therapists in Illinois are, for the moment, allowed to practice acupuncture under the guise of "dry needling," based on the premise that acupuncture needles are "assistive devices." This has the potential for opening the floodgates to other health professionals who wish to claim that acupuncture is within their scope of practice. This is a concern particularly with regard to professions that have "assistive devices" already within their scope of practice, such as *naprapaths*.

Conclusion

These assaults are very real threats to the integrity of our medicine. If each health profession chips away a little bit from our scope or requires that we practice under their supervision for certain patients or conditions or redefines what we do as "energetic" and what they do as "scientific" or "medical," we risk being boxed into a corner much the way Texas chiropractors are losing their scope. In 2011, an online chiropractic publication reported that their own regulatory board proposed that Texas chiropractors limit their scope to manipulation of the spine in an attempt to stem the assaults being made against them by other professions.

Individual acupuncturists may not feel threatened by being unable to practice on animals, or by physical therapists who perform one of AOM's modalities, but losing scope and losing control over our high quality of practice threatens our profession as a whole and therefore threatens every acupuncturist.

When a physical therapist with 27 hours of continuing education can legally perform acupuncture without any safety standards, board certification, or significant training AND then can submit claims for insurance reimbursement to insurance companies and to Medicare (they are coding "dry needling" as "injection" because nobody said a needle made for injecting has to inject something – never mind that they are not using empty syringes for "dry needling"), who do we think patients will choose to see, especially when their physicians have given them referrals?

This is happening around the country, and it has been successful in many states. We must be vigilant. We must work together. We must call on our national associations for help. We must fight these incursions, or we will find ourselves retreating into esoteric practice about which no one else will care. We must also, every one of us, take seriously the responsibility for teaching our patients about what we do and why they should want to be treated by a licensed acupuncturist rather than by another health professional who uses acupuncture needles without the appropriate training that ensures safe and effective acupuncture treatments.

Clearly what we have is powerful. Otherwise other professions would not try to limit us or co-opt our medicine. We must fight for the integrity and for the authenticity of what is ours. Our small size as a profession is not the issue here. It may be a David and Goliath situation, but David can win.

In all of these attacks in Illinois, acupuncturists were able to mount credible counter-attacks that eventually were successful (and hopefully will yet succeed, in the case of "dry needling"). In each case, though, what is sobering is that we had to pull in our well-connected lobbyist in order to gain access to the decision-makers who could take the actions we requested, in spite of having the full backing of our national associations.

If we are to protect our profession and our patients, it is important that we do everything we can to educate patients and legislators about acupuncture; but it is even more important that we educate the employees of state regulatory agencies. The strategy being used by the veterinarians and the physical therapists is to ask the regulatory agencies to rule on their own scopes of practice. At the same time, we are dependent on those state regulatory agencies to shut down inappropriate classes.

We must be vigilant. We must work together within our states and across state lines, and take action – immediately – when threats arise. The acupuncturists of Illinois understand the importance of working together and hereby offer to assist other states in the fight to protect our medicine and our licenses. Contact us through the Illinois Acupuncture Federation at tilacufed@hotmail.com

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