



WEAMA November 2017 Legislative Update

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Legislative Overview

The election was held on November 7th and it is now determined that the Senate will be controlled by the Democrats in 2018 because of the Senate race in the 45th district, formerly held by Senator Andy Hill (R), who passed away from cancer last year leaving an open seat this fall. As of Tuesday night, Democrat Manka Dhingra held a double-digit lead over her 45th District Senate opponent. This means that both houses of the legislature and the Governor's Office will be controlled by the Democrats. Keep in mind that the number of votes between the parties in each house is very close and not all legislators vote the "party line". We could see changes in environmental policy, taxes, voting rights and women's issues to name a few, in the next session.

The 2017 Fall Legislative Days November 13-17th this year, and I am already meeting with some key legislators in their home districts prior to that time. WEAMA operates in a bi-partisan way and meets with representatives on both sides of the aisle. This provides a more balanced approach to getting legislation approved in the legislature.

We still do not know if the state Supreme Court thinks the legislature has accomplished their goal of fulling funding education under the McCleary Decision. If they say no, it will be another difficult session and they only have a 60-day short session to work it out this time. 2017 was the longest legislative session in WA State history with three Special Sessions and over 6 months in session. No one wants a Special Session in 2018 because it's an election year and the entire House of Representatives are up for reelection and half of the Senate. The 2018 Legislative session starts January 8th, 2018.

WEAMA Legislative Priorities

Clarifies East Asian Medicine Scope of Practice and Training Requirements: This bill will update clarify the definition of acupuncture, add a definition for auricular (ear) acupuncture and provide legislative authority for the department of health to do rule making for continuing education if the profession so desires.

Support Acupuncture as an Alternative to Opioids: Acupuncture is a low-cost alternative to manage pain without pharmaceuticals. Other state Medicaid programs are expanding to include acupuncture as one of the tools to manage pain and treat chemical addiction. We support a pilot project to add acupuncture and other non-pharmacological treatments for Medicaid patients. L & I is working on a pilot project and rulemaking to add acupuncture for low-back pain.

Oppose Dry Needling/Acupuncture: WEAMA opposes dry needling by practitioners who do not have adequate training for the therapeutic insertion of needles into the human body. Any

practitioner who wishes to practice acupuncture needs national certification and adequate training to protect the public from harm.

DOH Rule making: Chapter 246-803 WAC East Asian Medicine Practitioner.

The Department of Health (DOH) is considering revising the East Asian medicine practitioner rules consistent with statutorily authorized five-year rule review. DOH is also considering including new sections regarding record keeping, infection control, and expired licensure. Statutes authorizing the agency to adopt rules on this subject: RCW 18.06.160

Reasons why rules on this subject may be needed and what they might accomplish: This rule review is being done consistent with the five-year rule review under RCW 43.70.041. As part of the review, the department will be looking at areas to consolidate and clarify requirements to better reflect best practices and complete general housekeeping. In the process, the department is also considering adding new rules for record keeping, infection control and expired licenses. Rulemaking maybe necessary to update, clarify, and modernize rule language to assure alignment with current practice and increase patient safety. Establishing clear record keeping and infection control rules will provide guidance to practitioners, potentially reducing the number and cost of disciplinary actions related to East Asian medicine practitioners.

The rules hearings will be held with the East Asian Medicine Advisory Committee meetings in the future. If you are aware of any changes that need to be made in the existing WAC [246-803](#) East Asian medicine practitioner, please let us know and the WEAMA Board will take your suggestions under consideration to present to the DOH East Asian Medicine Advisory committee when the rulemaking begins.

East Asian Medicine Advisory Committee

The East Asian Medicine Advisory Committee (EAMAC) Business meeting was held on October 20, 2017 at Department of Health in Kent, WA. EAMAC will be sending a letter to the Nursing Care Quality Assurance Commission (NCQAC) regarding the ARNP's practicing acupuncture. The committee staff stated that "As NCQAC the has revised their draft medical acupuncture advisory opinion, a letter from the East Asian Medicine Advisory Committee (EAMAC) was not prepared. The Assistant Attorney General for the EAMC stated that the NCQAC is one of the only commissions that has the authority to determine their own scope of practice and go directly to rulemaking. She suggested that the EAMAC request rulemaking on the Advisory Opinion on ARNPs practicing Medical Acupuncture.

As a reminder, the EAMAC advises and makes recommendations to the Secretary of Health. If the decision of the committee is to send a letter of concern, it will be sent to the secretary and he will make the final decision on if it should be forwarded to NCQAC."

Acupuncture and ARNPs Advisory Opinion

The ARNP Advisory Committee has approved of the Advisory Opinion for Medical Acupuncture to be performed by ARNPs. It now goes to the Nursing Quality Assurance Commission (NCQAC)

for approval. Their meeting is on November 17th. WEAMA will be testifying at the meeting about our concerns for consistent standards for the practice of acupuncture in WA State. The NCQAC has the statutory authority to determine what is in their scope of practice. They may be required to do rulemaking in relation to the advisory opinion and WEAMA and the public will have additional opportunity to comment.

Labor & Industries (L & I) Update

The Washington State Department of Labor & Industries (L&I) began the Acupuncture Pilot Project in October 2017. While the project is underway, L&I will pay qualified providers participating in the pilot project to deliver acupuncture treatment to injured workers with low back pain related to an accepted condition on an open workers' compensation claim. The details of this pilot, including restrictions and payment mechanisms, can be found on the L&I Acupuncture pilot webpage.

<http://lni.wa.gov/ClaimsIns/Providers/TreatingPatients/ByCondition/Acupuncture/default.asp>

L & I accepted 215 participants in the project, 65 beyond their initial request. This is good news because it makes the data gathered larger. To get on the L & I listserv, go to:

<http://lni.wa.gov/Main/Listservs/LNI-Acupuncture.asp>

L&I will use the pilot rulemaking process to allow and pay for acupuncture services during this pilot (RCW 34.05.313 Feasibility studies – Pilot projects). The exceptions to allow payment for acupuncture are effective throughout a two-year pilot period or as otherwise specified and will apply only to pilot participants. The CR-102 will be filed when there is sufficient data to assess and evaluate the provision of acupuncture treatment within the workers' compensation setting. At that time, pilot program results will be considered in developing proposed rule language, medical coverage decisions and/or payment policy.

Acupuncture and Medicaid

WEAMA Submitted a letter to Governor Inslee on acupuncture as an alternative to opioids and included recent evidence based data on the report. With a week of submitting the letter, WEAMA was invited to attend a meeting with the medical directors of the Health Care Authority, Medicaid and the Dept. of Health. They were very interested in our request for a pilot project for Medicaid to include acupuncturists, chiropractors, PTs and massage therapists.

Here is a summary of the letter:

Dr. Francis Collins, director of the National Institutes of Health stated at a Senate hearing on the opioid crisis October 5th, “We need all hands-on deck to address the opioid epidemic”. He also “stated that more emphasis must be placed on alternative treatments, such as acupuncture, which might be effective in treating pain and would keep people from getting addicted to drugs.”

We want WA State to be a leader in addressing the Opioid Epidemic by supporting alternatives to opioids for managing pain. Medicaid is the largest health care insurer in the state and we believe that low-income patients need and deserve alternative options to opioids to help reduce their pain.

A recent PCORI research project explored non-pharmacological alternatives for managing pain to help patients in low-income areas and they discovered there is a health disparity for low-income patients having access to non-pharmacological alternatives like acupuncture.

Congress passed the Comprehensive Addiction and Recovery Act and the 21st Century Cures bill, which included \$1 billion in state grants to fight opioid abuse.

Would it be possible if there funding is available for a pilot project using acupuncture, chiropractic, massage and physical therapy in our state Medicaid program?

Dr. Collins talked about a new interagency partnership, announced on Sept. 20, focusing on managing pain for veterans and service members without prescription drugs. The initiative totals \$81 million over six years to develop, implement and test nondrug alternatives. It's a collaboration between three departments: Health and Human Services, Defense, and Veterans Affairs. The NIH serves as the lead agency for HHS.

What if we had a collaborative in WA State between DOH, HCA, L & I to focus on managing pain without prescriptions?

The National Association of Attorneys General sent a letter to Marilyn Tavernner the President and CEO of Americans' Health Insurance Plans on September 18, 2017 asking states to "take proactive steps to encourage members to review their payment and coverage policies and revise them as necessary to encourage health providers to prioritize non-opioid pain management options over opioid prescriptions for the treatment of chronic, non-cancer pain. Among the "effective non-opioid alternatives" are acupuncture, massage, physical therapy and chiropractic.

Other states are offering alternatives to opioids in their Medicaid programs. WA State should be a leader and offer these treatments to our low-income citizens.

DOH Licensing System Update

DOH needs to upgrade their software program for licensing and certification at the agency. The current system is on the verge of failing and that the will need to replace the current system at a cost of around \$15 million. The department will need to increase all licensure fees for health care practitioners from between \$8-\$10 for the next 4 years.

At a recent conference I attended, we received an update on why the software needs to be updated and why there is a shortage to pay for it. The state legislature "swept" the professions O2G account 2 years ago to pay for the startup of the marijuana regulatory oversight. I am not sure of the amount that was taken, but there was a promise of putting the funds back into the account when the marijuana tax money started to come it. The legislature has not refunded that money.

This is one of the reasons that they are short in paying for the professions software program update.

Health Technology Assessment

WEAMA was very disappointed in the [Health Technology Assessment](#) (HTA) for Chronic Migraine headaches where Botox shots were approved over acupuncture. This has had an impact on insurance covering acupuncture for migraines.

Topics reviewed by the HTA program may be proposed by anyone. A formal topic selection process is conducted each year, to identify technologies for future assessment. At any time, stakeholders and organizations may suggest topics by submitting a petition for health technology review or re-review. WEAMA may want to ask the HTA to re-review their decision on acupuncture.