

WEAMA October 2018 Public Policy Update

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Legislative Overview: Dozens of races across Washington state will determine if Democrats maintain — or possibly even increase — their control of the Legislature. All 98 seats in the House are up for election Nov. 6, and voters will decide 25 of the Senate's 49 seats. While Democrats hold most statewide offices in Washington, the political split in the Legislature is much narrower: Democrats currently hold a one-seat advantage in the Senate and a two-seat advantage in the House.

The mid-term elections are on November 6, 2018 that will determine the configuration of the state legislature for the 2019 legislative session. Depending on the political outcome, policy and fiscal committees may be restructured by the party controlling the House or the Senate. Whatever the outcome of the elections, there will be new opportunities to educate new legislators on acupuncture!

WEAMA Public Policy Committee Meeting: The latest meeting was held on October 9, 2018. WEAMA is trying a new format to expand participation and transparency on important public policy issues impacting acupuncturists. We are opening up our Public Policy Meeting for the first half to all Acupuncturists/ EAMPS in the state. The second half of the meeting will be for members who have signed up to be on our WEAMA Public Policy Committee.

These meetings are recorded. WEAMA Board has decided that due to the sensitive nature of these meeting discussions, which strategize on important issues such as dry needling and medical acupuncture, we will ask our policy committee members to specifically request future meeting recordings. We want to try to assure that these discussions are not inadvertently being forwarded to other professions.

WEAMA sent out a Doodle Poll on September 17th to assist us in selecting the best day and time to hold our Public Policy Committee Meetings. We did not get much response to the poll, so we will continue to hold meetings on the second Tuesday of the month until a new time becomes more appropriate for the participants. It's also important that our board chairs can participate: Please fill out poll if you have not done so already: <https://redbarn.doodle.com/poll/i6v6b2udsrsrqwpu>

[Public Policy Meeting Notes 9/11/18](#)

[Public Policy Meeting Facilitated Discussion Notes 9/11/18](#)

2. WEAMA Public Policy Committee Agenda:

- PTWA facilitated conversations update and discussion.

- Scope of practice RCW update, developing a draft document for membership to review. Adding CEU's and changing profession name back to Acupuncturist.
- Update on discussions with the Nursing Care Quality Assurance Commission regarding Medical Acupuncture.

As a member of WEAMA you are welcome to request a recording of the meeting. Just send me an email and I will send to you: lesemerick@lkemerick.com

State Agency Regulatory Update

ARNPs Medical Acupuncture Advisory Opinion Discussion with NCQAC:

The Washington State Nursing Care Quality Assurance Commission (NCQAC) would like to invite you to their Acupuncture Workgroup meeting. We will be furthering the discussion related to the definition of medical acupuncture as well as discussion related to the steps moving forward in opening the current rules. The directions to the conference center below:

November 13, 9:45 am-11:15 am
CenterPoint Corporate Park Conference Center
20425 72nd Ave S, Suite 310
Kent, WA 98032
Mt. Adams Room

Background: has approved of an Advisory Opinion on Medical Acupuncture: Scope of Practice for Advanced Registered Nurse Practitioners. The Advisory Opinion significantly expands their scope of practice into a highly regulated state profession trained to practice acupuncture and requiring national certification with the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). WEAMA strongly believes that there is a need for additional public review and clarification of this significant of a scope expansion.

Department of Health (DOH)

Fund O2G: Health Professions Budget: The next meeting with the DOH on the O2G budget will be on October 12th in Olympia. I do not see a license fee increase in the works for EAMPs. There are concerns that the legislature "swept" nearly \$2 million from this fund for the initial set up of the Medical Marijuana regulatory system and has not paid that money back to the fund causing some of the shortage in the fund. At the meeting on August 6 at DOH with Kristin Peterson, Assistant Secretary for Health Systems Quality Assurance, and the DOH Budget Manager Ryan Black, there was a discussion with lobbyists for many professions regarding declining fund balances in the O2G fund account. They explained how the fund works and how projections are made, and they are having trouble keeping the desired 3-month reserve

recommended by OFM. This means they are going to the legislature with a decision package in 2019 for additional spending authority.

East Asian Medicine Advisory Committee (EAMAC): The next meeting is November 9, 2018 at the Department of Health, Creekside Two Center Point, Room 307, 20425 72nd Ave. S., Bldg. 2, Ste. 310, Kent, WA. It is a public meeting and you are welcome to attend.

If you are interested in being part of the decision making and input for the WAC/Rules impacting your profession, I would suggest attending the EAMAC meetings. The department is reviewing chapter 246-803 WAC to begin the rule drafting process. The public is welcome to take part in helping us write rules. Rules are also known as regulations, Washington Administrative Code, or WAC.

Health Care Authority (HCA)

There is not a decision package for the Governor's budget for Medicaid to cover acupuncture and other non-pharmalogical options to pain. In a conversation with Jason McGill, Governor Policy staff, he said that it could still end up in the Governor's budget, but I would say it is unlikely if there is no decision package.

Labor and Industries

Acupuncture Pilot Project: The Acupuncture Pilot Project will continue to collect information to inform the provision of acupuncture treatment for low back pain, including acupuncture provided by East Asian Medicine Practitioners (EAMPs), to injured or ill workers covered by Washington's workers' compensation system.

According to Zachary Gray, L & I Epidemiologist and Acupuncture Pilot Project Manager, "The current number of claims that have received acupuncture is 369, since the beginning of the pilot on October 1, 2017. As far as feedback, the pilot is going well. I would say most of the pilot providers are compliant with submitting their functional tracking documents to the acupuncture inbox, but I believe there are some who lag in submitting or only submit it to the claims file. I'd also note that of the 159 claims that have completed a course of acupuncture treatment, 118 have completed due to "insurance benefits expired," and only 23 have completed treatment due to "goals met".

[See the frequently asked questions about the Acupuncture Pilot Project](#) (318 KB PDF).

To stay informed of updates regarding the Acupuncture Pilot Project, please <http://www.lni.wa.gov/ClaimsIns/Providers/TreatingPatients/ByCondition/Acupuncture.asp>

Office of the Insurance Commissioner

WEAMA had on October 10th in Olympia with OIC staff to discuss our concerns about Regence announcement that eviCore is changing guidelines for covering acupuncture, effective November 2 this year. John Frostad, Charis Wolf and I were representing WEAMA at the meeting. We filed

a complaint that insurers are violating "Every Category Provider" laws in WA State. Specific problems:

1. "Acupuncture is not considered medically necessary if it may delay or replace standard medical care."
2. To be considered medically necessary, treatments must meet "standards that are based on credible scientific evidence published in the peer-reviewed literature generally recognized by the relevant healthcare community, specialty society evidence-based guidelines or recommendation.
3. Specific conditions are excluded for unclear or insufficient research: ankle sprain, carpal tunnel syndrome, dysmenorrhea, fibromyalgia, hyperemesis gravidarum, nausea in pregnancy.
4. EviCore disagreed with the Acupuncture Evidence Project (and therefore exclude coverage for) hypertension, restless leg syndrome, PTSD and schizophrenia.
5. EviCore limits or excludes menstrual cramps, addiction (including tobacco), and infertility.

WEAMA Insurance Chair, John Frostad prepared a document for WEAMA to submit:

- 1) The ECP law requires insurers to pay for similar services to any category of provider that provides it. Meaning: If they pay doctors to do acupuncture, then they must pay acupuncturists to do acupuncture. There really is no work around to this for insurers, unless they can dispute as to whether the service is actually part of that provider type's legal scope.
- 2) The ECP law requires insurers to pay for available health services (across all provider types) which treat conditions that they do cover. So if they cover the treatment of migraines, they must pay for available health services of all types of providers (and vicariously their legal scope of practices) that offer treatment for migraines.
- 3) The ECP law does allow insurers to deny payment for a service type for a specific condition if the modality is found to not be clinically effective or not cost-effective. Most insurance companies have not exercised this right to exclude services for payment based upon efficacy or cost up to this point.

Here is the response we received from Molly Nollette, Deputy Insurance Commissioner, Division of Rates & Forms

Hello Leslie, John, and Charis,

Thank you for coming to our office to share your concerns regarding certain health insurance carrier practices. I would like to confirm my understanding of your concerns and suggest some next steps that we discussed in the meeting.

One of your concerns is that carriers are not providing fees schedules to contracted East Asian Medical practitioners that include all services within the scope of practice. As a result, when services without fee schedules are submitted for reimbursement, no reimbursement is being provided. Our question to you is whether the credentialing of the contracted provider by the carrier included the full scope of practice. We suggest that providers review their provider contracts and carrier credentialing documents and confirm with the carrier the scope of their credential. If the credential does not include all services within the full scope of practice, we suggest that providers ask why the scope of the credential has been limited. This information would be useful to determine how next to proceed.

One term of art that we discussed was “credentialing”. In this instance, we refer to the credentialing performed by the carrier which confirms which services the provider is contracted to perform by the carrier.

Please let us know what your membership discovers regarding the credentialing. We are very interested in learning why the fee schedules do not encompass the full scope of practice for East Asian Medical practitioners.

Potential 2019 Legislation Impacting Acupuncture and East Asian Medicine

Considerations for the 2019 Legislative Session

WEAMA’s official position is and has consistently been that “Dry needling is acupuncture and that high training standards are required to protect public safety.”

The American Physical Therapy Association is pushing dry needling across the country. There are 6,000 licensed PTs in WA State. There are around 1,450 licensed East Asian Medicine Practitioners. The PTs contributed around \$80,000 to political campaigns for the upcoming legislative session. The Senate Health Care committee chair and ranking minority member were supportive of the PT dry needling legislation last time around. Rep Cody, the House Health Care Committee Chair is not supportive of PTs performing dry needling but has advised us to negotiate the highest standards that we can with the PTs due to the support they have for this bill.

Some states that did not negotiate with the PTs, like Colorado, lost the legislative battle and the PTs set the standards at 49 hours of training. WEAMA does not want the PTs to set the standards for this limited form of acupuncture if they are successful in the legislature. We maintain our position that “Dry needling is acupuncture and that high training standards are required to protect public safety.”

WEAMA was contacted in the fall of 2017 by the Center for Dialogue and Resolution in Tacoma WA, at the request of the Physical Therapy Association of WA (PTWA), to see if we were

interested in participating in discussions with PTWA regarding their dry needling legislative proposal for the 2019 legislative session.

At the WEAMA Spring Conference, May 20, 2018, the WEAMA Board facilitated a conversation with our membership on the legislation that the Physical Therapy Association of WA (PTWA) is going to propose in the 2019 legislative session allowing them to perform dry needling on patients. At that meeting a vote of the membership was taken about proceeding with a facilitated conversation this fall with PTWA on their legislative proposal. The large majority of members voted to support keeping the conversation going with PTWA.

WEAMA has also been asked “What’s the difference between a facilitated conversation and a mediation?” We were clear with the Center for Dialogue and Resolution and PTWA that we were not going to negotiate/mediate an agreement in the 2 meetings that WEAMA agreed to participate in. The goal was to hear each other’s position in a facilitated environment to see if there were areas of common ground and understanding prior to the PT bill coming out in the 2019 legislative session.

PTWA Meeting Summary

The facilitators began the initial discussion with a definition for what the procedure would be called if PTs were to perform a very limited procedure for movement impairment only. WEAMA was clear from the beginning that regardless what they called it, it was a form of acupuncture. The PTs acknowledged the similarities of procedures. Discussions moved forward regarding terms such as "intramuscular manual therapy", “trigger point needling” and “intramuscular needling”. Our team strongly pushed back on the term "intramuscular manual therapy” as it was way too broad. No determination was made.

WEAMA proposed competencies in these training areas with a high number of hours required: • Basic Acupuncture Medical Theory and Pathology • Trigger Point Needling and Point Location • Needling and Insertion and Safety Training • Clean Needling Technique • Supervised Clinical Training

There was discussion around why these standards are important to protect public safety. Also, for PTs to understand the basic physiology of acupuncture to know when to refer out to a licensed Acupuncturist. We discussed other states statutes regarding dry needling language but did not agree on any during the course of the meeting.

WEAMA also stated that PTs would not be able to use acupuncture codes (97810-97814) nor be able to call themselves acupuncturists or that they were performing acupuncture treatments.

We ended the conversation stating that both sides “heard” the others concerns. There were commonalities in understanding on protecting public safety and competency examinations. There was no agreement on the number of hours that would be required.

WEAMA will be having a discussion with our membership on how to proceed at our Fall Conference on October 21, 2019 in Bellevue WA. WEAMA has also been offering the membership to opportunity to participate in Public Policy meetings on the second Tuesday of each month to be part of the discussion about the various issues impacting the profession. The association is committed to transparency and invites your participation in these important considerations for your profession.

RCW 18.06 Update

WEAMA will be proposing a major update to RCW 18.06 for the first time in 10 years. We are considering moving away from the term East Asian Medicine to Acupuncture. Acupuncture is the commonly understood term for your medicine and is gaining popularity as a treatment choice for patients, especially with the opioid epidemic raging in our state and country. Much of the language in the intent section is outdated and we need to strengthen, update and possibly add sections related to Continuing Education, training and licensure requirements to practice acupuncture in our state. It may also include some further clarification around scope of practice for acupuncturists. We are still working on a draft document that will be released to the membership by the Fall Conference for discussion.

Recent developments on the national level are also driving our RCW18.06 update. The U.S. Bureau of Labor Statistics now features “Acupuncturists” with its own classification as a federally-recognized labor category based on measurable data that confirms growth in the industry. This recognition earns Acupuncturists a distinct Standard Occupational Code (SOC) and job classification with U.S. Department of Labor, National Center for Education Statistics, U.S. Department of Defense, National Science Foundation, and U.S. Census Bureau. Acupuncturists in the VA now have a government standard (GS) range of GS 9 -12, depending on the Acupuncturist’s level of education, training, and experience. This allows for an Acupuncturist to have advanced placement within the system, depending on their experience and education; however, all Acupuncturists must be actively NCCAOM National Board-Certified.

Agency Decision Packages for the 2019 Legislative Session

DOH Licensing System Replacement: DOH regulates 430,000 healthcare practitioners in 86 professions. They have an antiquated computer system in place for licensure of professions. The department is proposing a \$10 fee increase for 4 years for all professions to pay for the licensing system upgrade.

Background: Currently professions pay a licensure fee that covers the cost of the regulation of the profession at DOH. Fees go up and down depending on the number of investigations or disciplinary actions during a set period of time. There are approximately 1,400 licensed EAMPs in our state. Acupuncture has a very low level of complaint against our practitioners and disciplinary actions. The East Asian Medicine Advisory committee is also funded by your licensure fees. The East Asian Medicine Advisory Committee (EAMAC) is a Secretary Profession regulated under the Secretary of Health. Your licensure also covers the [HEAL-WA](#) research access for practitioners.

2019 Acupuncture & East Asian Medicine Day Join WEAMA for our Acupuncture & East Asian Medicine Day in Olympia! We are going to be offering auricular acupuncture treatments in the Capital Building as a demonstration!

Please mark your calendars for February 26, 2019. Orientation and review of talking point starting at 7 am! Let us know if you would like to be one of the practitioners demonstrating auricular acupuncture on interested parties!

WEAMA has reserved the Washington Room in Prichard Building on the Capital Campus for our legislative day. We will work with you to set up meetings with your local legislators to advocate for acupuncture. More info to come as we get closer to the date!