

CONSIDERATION OF MEDICAID COVERAGE FOR COMPLEMENTARY  
MEDICINE AND THE SUNSET ACT:

ACUPUNCTURE

And

Renewal of the New Mexico Acupuncture and Oriental Practice  
Act

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Greetings to Madame Chair Christine Trujillo and Members of the Legislative Health and Human Services Committee.

Thank you for this opportunity to present to this committee today and I would like to convey why it is important for this committee to strongly consider implementing complementary medicine into Medicaid coverage for New Mexican citizens and renewing the New Mexico Acupuncture and Oriental Practice Act.

I am Dr. Yvette Arellano DOM, LMT. I have been a Doctor of Oriental Medicine for going on 19 years and a Licensed Massage Therapist for 25 years. I have also been a Physical Therapist Aide/Tech and worked with sports medicine and orthopedic surgeons, chiropractors, nurse practitioners, naprapathic doctors, occupational therapists, massage therapists, as well mental health care providers. I have dedicated my half of my entire life to being a healthcare provider and managed chiropractic offices from the time I was 20 years old. I have provided care for New Mexicans in Albuquerque, Rio Rancho, Santa Fe, and I had a practice in Cuba, NM for 6 years. In addition, I have had patients that travel from various cities in New Mexico to receive care through the years that I have provided care. I have also provided care to actors, actresses, directors, and crew from around the world when they come to be a part of our film industry. My specialty is acute and chronic pain and difficult medical cases. I'm blessed to have a professional that I love and even after all these years of being in practice at times I'll still blown away from how effective acupuncture can be.

The efficacy of acupuncture gets illustrated time and time again especially when we have patients come to receive care that have told by Western medicine professionals that there is nothing else that they can do and that they will just have to live with whatever ailment they have for the rest of their lives. Many of my colleagues have miraculous stories of results they have assisted in and witnessed. The amount of abundant success that I have seen with Traditional Chinese Medicine otherwise known as TCM or acupuncture drives me to keep providing and sharing this medicine. In addition, losing my father and grandmother to Western medical mistakes, such as my father's heart transplant being put in crooked and that not being revealed until an echocardiogram tech mentioned it, to my grandmother having open heart surgery and coming out of surgery paralyzed. Preventative suggestions such as dietary recommendations prior to having open heart surgery were not recommended, but fortunately those suggestions are more common now and she may have been able to have a better outcome if that was the case. Another inspiration I have would be my son who has Autism, Down Syndrome, and Stage 2 kidney disease. After 8 years or so, my son's nephrologist finally told me that my son was probably doing so well because of the care I had been giving him and my approach in caring for my son comes from my training as a Doctor of Oriental Medicine. He is doing exceptional and hopefully no kidney transplant for my son for another 10-20 years, or maybe not at all is my intention. My son is one of my greatest teachers, he has made me a better practitioner and healthcare advocate. I don't give up and I will work my hardest to find a solution and approach to bring wellness to my patients as many of my colleagues do as well, and I am fortunate that TCM goes me so many options to offer patients to accomplish this. In TCM, we always try to get to the root cause of dis-ease and or disharmony. The basic premise of acupuncture is to put the body back into to balance so it can heal itself. As an organism

that's what the body strives to do, to bring back balance, health, and homeostasis. Even at the slightest inkling of a pathogen entering the body, the immune system gets to work to get well again.

I know that many of my colleagues have changed the lives and health of so many patients and I will illustrate why acupuncture would be a beneficial addition to Medicaid. For this presentation I will be referring to the article that I have provided by my fellow Board member Dr. Elene Gusch DOM titled Integrative Pain Treatment Subcommittee Recommendation, (further reference to his article will be IPT) because it provides some thorough rationale of a proposed recommendation of coverage of acupuncture visits that not only are at an equal level to the New Mexico ACA Benchmark Plan, this article also highlights the data in regards to acupuncture effectiveness as well as the statutes that are already in place, although they have not been fully adopted. From the IPT number 2. In the section under rationale, it states:

2. Doctors of Oriental Medicine have a broad scope of practice and treat much more than just pain, using a variety of methods in addition to acupuncture. They are also able to order lab tests and imaging. New Mexico does not have a sufficient number of primary care physicians, and DOMs can help make up for that lack.

In addition, the statute below has already been in place since 1978, and it includes coverage for licensed doctors of Oriental Medicine. Therefore, no additional legislation needs to be added and it would be advantageous to take acupuncture to the extent that these statutes suggest. Although, one of our deepest concerns is the Sunset Act, which terminates the Board of Acupuncture and Oriental Medicine on July 1, 2023. As mentioned previously that the DOM licensure has a 41 year history here in New Mexico. So many other insurance plans have already embraced acupuncture coverage, including now Medicare which allows patients to be seen for low back pain, which 80% of Americans go seek treatment for. Without an official board and governing body this would also be a tragic loss to the current benefits and public safety measures that the board provides for this medicine and the leaps and bounds that we have made as providers in the state of New Mexico. I will illustrate the thoroughness of what is additionally in place further in this presentation, although for purposes of the inclusion of acupuncture into Medicaid this is already included in the NMSA 27-2-12.

From the IPT article we see this illustrated under the section of **current statutes**.

**13. Key point: Under New Mexico law, DOMs' services are reimbursable by Medicaid.**(27-2-12 NMSA 1978) "Medical assistance programs: A. Consistent with the federal act and subject to the appropriation and availability of federal and

state funds, the medical assistance division of the department may by rule provide medical assistance, **including the services of licensed doctors of oriental medicine**, licensed chiropractic physicians, licensed dental therapists and licensed dental hygienists in collaborating practice, to persons eligible for public assistance programs under the federal act.”

Since almost half of the states across the nation are already incorporating complementary medicine and acupuncture into their Medicaid coverage, renewing the NMSA of 1978 would keep New Mexico current with where health is going by continuing to embrace complementary medicine as standard care. Across the nation we have already had so many setbacks from enduring the pandemic and patients who have discovered how effective acupuncture is, they heavily rely on acupuncture for their chronic conditions, and many prefer acupuncture over Western medicine. It is also often easier for patients to get in to see DOMs sooner than it is to be seen by their PCPs. In addition, there is data from 2020 stating that 47% of Family Medicine practitioners are feeling burned out, especially due to the pandemic. (1) In turn, Doctors of Oriental Medicine can provide care for patients seeking Family Medicine because most acupuncturists are versed in treating patients from a general practice perspective. DOMs have methods for treating viruses as well, and we can assist in decreasing the strain put on the medical system due to viruses like Covid, and now RSV this cold and flu season. This would help to provide more care options to patients since New Mexico has a deficit number of PCPs and long waiting times for patients to receive care overall. This would decrease the demand on PCPs because Medicaid patients could be seen by DOMs.

Regarding the treatment of pain, on February 14, 2017 (almost 6 years ago) the American College of Physicians (ACP), which is the largest medical specialty organization in the United States, issued guidelines for treating non-radicular low back pain because that is one of the most common reasons for visits to the emergency department, urgent care, and or PCP offices. The first recommendation from the ACP states that “physicians and patients initially select non-drug therapy with exercise, multidisciplinary rehabilitation, acupuncture, mindfulness-based stress reduction, tai chi, yoga, motor control exercise (MCE), progressive relaxation, electromyography biofeedback, low level laser therapy, operant therapy, cognitive behavioral therapy, or spinal manipulation(chiropractic). Therefore, acupuncturists are listed in the first category of recommendations. Dr. Damle the President of the ACP at that time stated that “Physicians should remind their patients that any of the recommended physical therapies should be administered by providers with appropriate training.” Hence, DOMs in the state of New Mexico are one of three states that has the broadest scope of practice in the entire nation in regards Oriental Medicine otherwise known as Traditional Chinese Medicine (TCM) and we can provide effective pain management. In addition, acupuncturists are the most capable practitioners to handle the filiform needles for public safety reasons because we are the most thoroughly trained. We have had the title of Doctor of Oriental Medicine Licensure for 41 years in New Mexico. We are proud that Governor Michelle Lujan-Grisham declared October 24<sup>th</sup> Acupuncture and Herbal Medicine Day. We celebrated our second year of this Proclamation this past October. Our pharmacopeia is comprised of thousands of herbs, and we have a formula for almost every ailment that Western medicine has. In addition, we have been seeing

more interest in our profession due to the acknowledgment of the efficacy that occurs in muscle tissue upon insertion of the filiform needles, and the success other practitioners are seeing in their patients with the use of filiform needles. Although, what is occurring is that when other practitioners begin using our tools with less training and a licensure of a Doctor of Oriental Medicine, this can become a public health and safety issue, such as injury to muscle tissues. Patients are then often reluctant to report to the proper boards when they experience an injury from other practitioners that have started using filiform needles. The Board of Acupuncture and Oriental Medicine in the State of New Mexico has exceptional standards for our professional and educational standards to ensure that licensees are nationally, and state tested for their competence in the knowledge, comprehensive philosophy, and techniques of the way the filiform needles were truly meant to be used. Furthermore, DOMs throughout the state had an influx of mental health patients throughout the pandemic because we do treat these conditions as well, which in turn decreases the strain on mental health providers as well. Wait times are currently 6-8 weeks, or even as long as 6 months for mental health providers. Next is some of the data that supports Medicaid expansion as follows from the IPT article:

**The data supporting this proposed recommendation**

4. In 16 states, there is at least some Medicaid coverage of acupuncture, with varying eligibility benefits and limitations. In our state, Presbyterian offers some coverage of acupuncture for dual-eligible (Medicare/Medicaid) members, and elderly or disabled New Mexicans covered by the Self-Directed Community Benefit program can include acupuncture in their health care budget. While these programs are helpful, they still leave most low-income New Mexicans behind.
5. According to Medicaid.gov, as of April 2022 New Mexico has enrolled 870,319 of our people in Medicaid and CHIP. This means that almost 41% of our population lacks access to important non-pharmacological treatment for pain and other conditions.

This is concerning because individuals who are on disability that are insured by Medicaid do suffer from injuries that cause pain. From my own clinical observation these patients are somewhat maintained by medications and often these patients are not getting well. ACP guidelines recommend that opioids should be the third and “last option for treatment and only in patients who have failed other therapies, as they are associated with substantial harms, including the risk of a of addiction or accidental overdose.”(2) The New Mexico Department of Health reported in 2019 that 74% of overdoses were due to opioids and allowing access to complementary medicine such as acupuncture which is effective to decrease pain, would not only potentially decrease the patients symptomology as well as hopefully decrease the need to

prescribe opioids and contribute to overall decreased addiction for patients that have got addicted due to pain related prescriptions.

Additional, **data supporting this proposed recommendation**

1. Evidence Based Acupuncture has provided good summaries of evidence for the effectiveness of acupuncture for pain and other conditions (see references below). “Acupuncture has been demonstrated to activate a number of the body’s own opioids as well as improving the brain’s sensitivity to opioids. A number of other biochemicals involved in pain reduction have been found to be released or regulated by acupuncture stimulation, including ATP and adenosine, GABA and substance P. In the context of ineffective and often dangerous pharmaceutical options for pain, acupuncture represents a safe and effective alternative with a long track-record of successful use.”
2. Various NIH publications have recommended the use of acupuncture as well as other non-pharmacologic treatments.

Due to the efficacy of acupuncture reducing and pain and patients recovering faster, more individuals could return to the workforce and in turn access other insurance from their employers and or programs like Be Well New Mexico because they can return to work. In addition, “According to national studies, Medicaid Expansions did not lead to significant increases in spending from state funds. Solid research has also shown that there were no significant reductions in state spending on education, transportation, or other state programs as a result of the Medicaid Expansion during a five-year period. Single-state studies, in Louisiana, Kentucky, Arkansas, Michigan, and Montana have shown that the Medicaid Expansions resulted in significant state savings. (3)

The following from the New Mexico Statutes Annotated (NMSA) Chapter 27, Public Assistance 27-2-12 illustrates what is already in place from the IPT. What is already in place is very thorough and in 2023 it will be 45 years that the New Mexico Acupuncture and Oriental Practice Act has not been even fully adopted. We ask that a renewed act is strongly considered, and that Medicaid coverage be fully adopted as well. We are seeing that other states that have already been covering complementary medicine going on 5-7 years, such as the state of Missouri that saved 7 million dollars in their first year of incorporating complementary medicine to saving 700 million dollars into their second year of coverage. As we can see below how thorough and appropriate the current act is and how well it has worked since it’s inception. It obviously gave us room to grow and fulfill. Now is the time to focus on renewing this act and fully adopt what was initially written. Who would have known that it would possibly take this long, although better late than never. We, Doctors of Oriental Medicine would appreciate our profession to stay intact with the level of integrity and safety that this Act

has provided. Furthermore, as announced last October \$74.4 million of federal funding has been allocated to New Mexico to operate a collateral support program and an equity capital program to promote small business growth. Coincidentally, the majority of DOMs are small business owners. Let's continue to align with what has already been beautifully set in place for the benefit of New Mexican's health needs and demands, and now more business opportunities for small business owners such as all complementary medicine providers.

**Current statute, rules, regulations, or recently proposed legislation related to this recommendation:**

3. **(Points 3-15 are taken from the New Mexico Acupuncture and Oriental Medicine Practice Act.)** Doctors of Oriental Medicine (DOMs) are licensed in New Mexico as Physicians. (61-14A-3. C. NMSA 1978)
4. DOMs are Primary Care Providers. (61-14A-3. F. NMSA 1978, & 13 NMAC 10.13.9.1.1)
5. DOMs are licensed to diagnose, treat and prescribe for any disease, illness, injury, pain or other physical or mental condition. (61-14A-3. E. NMSA 1978)
6. DOMs have a wide-ranging scope of practice including most areas of diagnostic testing and an extensive array of treatment options, including manipulation and other physical medicine modalities. Some DOMs have expanded practice licensure that includes injection therapy. (61-14A-3. G. NMSA 1978, & 16 NMAC 2.2)
7. Under New Mexico law, DOM services are reimbursable in workers' compensation cases. (52-4-1. L. NMSA 1978)
8. Auto Med-Pay insurance is mandated by NM law to reimburse for acupuncture and other DOM services in a non-discriminatory manner. (59A-32-22. NMSA 1978; & 59A-7-7. D. with 59A-22-32. NMSA 1978)
9. Non-discriminatory coverage of DOM services, including acupuncture, is mandated for indemnity health insurers. (59A-22-32. NMSA 1978)
10. Together with MDs, DOMs are defined in NM law as Practitioners of the Healing Arts. (59A-22-32. B. (2) NMSA 1978)
11. Non-discriminatory coverage of DOMs by "nonprofit" healthcare insurers is mandated. (59A-47-28.2. NMSA 1978)
12. HMOs must not discriminate against DOMs. (59A-46-36. NMSA 1978)
13. **Previously mentioned.**

**14. Page 3 of the New Mexico Essential Health Benefits Benchmark Plan lists acupuncture as being covered at 20 visits per year. Page 1 states: “New Mexico changed its EHB-benchmark in 2020 to come into effect in plan year 2022.**

In conclusion, there are so many benefits that acupuncture has to offer. The implementation of acupuncture has the capacity to provide solutions to so many of the problems the state of New Mexico is dealing with from the propensity to drug addiction due to pain medications specifically opioids, shortages of PCPs and long waiting times, and providing an efficient way to treat pain. In addition, it could potentially assist in helping people recover from disabilities caused by pain, and in turn have people return to the workforce and not rely on Medicaid as much, which then equals saving to the state. And, ultimately most states that have implemented complementary medicine that include acupuncture have saved money. This is a positive, promising, and a humane solution on so many levels for the health of New Mexicans that are Medicaid beneficiaries and well as other patients that receive care due to the DOM licensure. In addition, individuals who have chronic diseases stay healthier and out of the hospital by receiving acupuncture, which overall reduces more costly interventions, emergency, urgent care visits, and prolonged hospital stays. Prior to Michelle Lujan-Grisham becoming Governor Medicaid coverage was going to be implemented. Molina sent out letters to DOMs stating that we would be grandfathered into Medicaid coverage. Unfortunately, we then received another letter shortly thereafter that this was cancelled due to the state not taking all the Federal funds offered for Medicaid at that time. Their approach was efficient in getting DOMs into the system, so it possible depending ultimately on the states funds for Medicaid as well.

Madame Chair Christine Trujillo and Members of the Legislative Health and Human Services Committee, thank you for your time and consideration in these matters.

Respectfully submitted,

Dr. Yvette Arellano DOM, LMT Vice President NMSAAM, Legislative and Public Relations Chair

**REFERENCES:**

1. Statista, Frederic Michas Aug. 30, 2021
2. American College of Physicians issues guideline for treating nonradicular low back pain. February 14,2017
3. Antonisse, et al. 2019 “Health Management Associates Report: Medicaid Expansion in Missouri - Economic Implications for Missouri and Interviews Reflecting Arkansas, Indiana, and Ohio Experiences” January 30, 2020



