

## **Compliance: The Act of Acquiescing to the Rules**

By Marilyn Allen, Editor

ACAOM is "not the only voice" of the Profession Last month, I was talking with a former student who is getting ready to take the national acupuncture examination and his individual state exam.

He had missed filling in a specific section of the national exam application and was having trouble getting approval to sit for his state exam. As a result, he had called me with several questions regarding his state's acupuncture regulations.

This student's situation started me thinking about the myriad of laws that can impact an Oriental medicine practitioner, whether that person is just starting school; is about to open a practice; or is a veteran provider with an established practice. Whether you are about to embark on a career in Oriental medicine or have been practicing for several years, you are subject to a wide range of local, state and national laws, rules and regulations.

A member of an acupuncture board from a neighboring state recently told me, "The public expects the same level of standards from their acupuncturist as they do from their medical doctor." The concept of standards brings to mind the term compliance, which brings about several other important issues.

One issue is patient compliance. In working with a number of new acupuncturists, I have found that many patients will show up for their first visit with a practitioner, but will not follow through with treatments. Other patients will not want to take the herbal products or drink the remedies their acupuncturist prescribes.

One option that may increase a patient's compliance with your recommendations is to have the patient bring someone with them (a friend or family member) to help understand your report of findings. In a report of findings, you explain what you have found; how you are going to help the patient with his or her condition; and how long you think it will take for the condition to be resolved. Having a friend or family member on hand to hear the information not only makes them more supportive of your patient; it also increases that

person's education. Patient compliance seems to go up, and they're more likely to return for future office visits.

Another area of compliance is complying with your state's laws and regulations. States pass new laws and revise or update existing ones on a yearly basis. Do you have a current copy of your state's laws that relate to the practice of acupuncture? Have you read those laws since you graduated and began practicing? If you haven't examined these laws lately, the sooner you do, the better.

Are you willing to work with the compliance office in your state? Please bear in mind that it is the responsibility of your state's acupuncture board to maintain public safety. Call your board to see if they offer any seminars about the current acupuncture laws. This will help ensure that your practice is compliant with the latest rules and regulations.

Does your office comply with the state's insurance laws so that you can properly bill patients and receive reimbursement? Do you know your state's insurance codes and the type(s) of reimbursement you are entitled to? Many states have a "fraud squad" - a team of investigators and attorneys whose mission is to look for instances of insurance fraud, such as double billing and billing for services that either weren't rendered or were rendered to someone other than a patient. One such case was recently brought to my attention, when it was discovered that some acupuncturists who have more than one office were billing for the same patient, on the same day, for the same treatment, out of both offices. This is an example of double billing - and in case you didn't notice, it's illegal.

Are you familiar with the scope of practice in your state? Not every state has the same scope of practice. In some states, acupuncturists are considered primary care providers; in others, a patient must be referred to an acupuncturist for treatment, or an acupuncturist can only provide care under a medical doctor's supervision. Do you understand the legislative language that determines your scope of practice? If you practice outside your defined scope and are hit with a malpractice suit, you may not be covered by insurance because you may have delivered treatment considered outside your scope. **Always** practice within your scope.

Are you compliant with OSHA's guidelines? This is a big question. Of course, the issue of "sharps" is of primary concern. Needless to say, this is an issue that acupuncturists are familiar with (and handle quite well). Blood-borne pathogens and OPIMs (other potentially infectious materials) are becoming more important as patients with HIV and hepatitis C are being seen frequently. Vitalization and fumes (whether from moxa or other substances) must also be dealt with in individual offices. You must make sure that your

office complies with OSHA's guidelines.

Are you in compliance with the Americans with Disabilities Act? Does the building in which you practice have handicapped access? Does it have a bathroom stall that has been modified for use by a person in a wheelchair? Is the parking facility well-lit? If you are looking for a new building in which to practice, or are just beginning to practice, you must keep these issues in mind.

Do you comply with the latest treatment styles, modalities and procedures so that you stay within malpractice and risk management guidelines? Do you wash your hands before and after treating each patient? Are you familiar with what constitutes a malpractice case? Malpractice is a treatment delivered by a medical professional that resulting in an actionable injury to a patient. This can include acts of omission (something you may have missed or failed to do) and acts of commission (something you may have done on purpose or with intent). Remember: you are responsible for what you **should have found**, as well as what you find.

Are you in compliance with the rules of record keeping to meet industry standards? You should always record your findings with any patient, detail the treatment procedures you use, and record your patient's progress, and you should do so in a concise and professional manner.

These are just some of the rules, regulations and laws of which you should be aware and to which you should comply. In addition to written laws, however, there is also a code of ethics for acupuncturists that establishes ethical standards for the profession.

### **Code of Ethics for Licensed Acupuncturists**

- An acupuncturist is educated and trained to provide acupuncture care and should only perform those services within the scopes of practice of the profession.
- Acupuncture services must be provided with compassion, respect for human dignity, honesty, and integrity.
- The acupuncturist must act at all time so as to ensure that the best interest of the patient is served. An acupuncturist's clinical judgment and practice must not be affected by economic interest in professionally related commercial enterprises.
- The acupuncturist must not misrepresent their credentials, training, experience, ability, or results.
- Communication to the public from the acupuncturist and the acupuncture profession must not convey

false, untrue, deceptive or misleading information, through graphic or written means.

- The acupuncturist must maintain open communication with the patient and safeguard confidences within the law.
  - The acupuncturist must maintain their competence with continued study.
  - An appropriate informed consent shall precede all acupuncture services.
  - An acupuncturist must not delegate to an auxiliary person the aspects of acupuncture care for which the acupuncturist is responsible, unless the auxiliary person is qualified and adequately supervised.
  - Additional consultations, opinions or options shall be obtained if requested by patient or required by condition. An acupuncturist should order only laboratory procedures and/or tests that are in the best interest of the patient.
  - Any acupuncturist who has a physical, mental or emotional impairment should withdraw from the aspects of practice affected by the impairment.
  - Fees for acupuncture services must not exploit patients or others who pay for the services. An acupuncturist must not misrepresent the services performed or the charges made for those services.
  - Any acupuncturist who behaves unethically or who engages in fraud or deception should be identified to the proper authorities.
  - The acupuncturist must respect and accept the responsibility of a primary healthcare provider.
  - The success of an acupuncturist depends on character and personality. Character is based on ideals. The ideal of an acupuncturist should be to render service to humanity.
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