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Washington State Department of Health Sunrise Review

**Proposal to Increase Scope of Practice for Acupuncture and Eastern Medicine
(Name Change effective 7/28/19, SHB 1865, 2019 Legislative Session)**

Applicant Cover Sheet

Legislative proposal being reviewed under the sunrise process: Scope clarification and expansion originally proposed in HB1865 (2019 session), now DRAFT HB ----- with some minor changes. (Bill Draft Submitted by Representative Cody 5/30/19, with letter to John Wiesman, Secretary of Health)

Name and title of profession the applicant seeks to credential:

Title: Acupuncture and Eastern Medicine: SHB 1865 (formerly East Asian Medicine)

Acupuncture and Eastern Medicine Practitioners (AEMP)

East Asian Medicine Practitioner (EAMP)

Acupuncturists (L.Ac.)

Approximate number of individuals practicing in WA state:

There are currently 1,599 active licensed East Asian medicine practitioners in Washington. Of this total, 115 are located out of state.

Information about applicant's organization:

Washington Acupuncture and Eastern Medicine Association (WAEMA) is the primary organization representing acupuncturists in Washington State through advocacy and educational efforts.

Contact:

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Number of members in the organization: approximately 280 members

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Names & addresses of national organizations with which the state organization is affiliated:

American Society of Acupuncturists (ASA)

4400+ members

David Miller (Chair)

4361 N Lincoln, Ave, unit 5

Chicago, IL 60618

Ph: 773-960-8901

National Certification Commission of Acupuncture and Oriental Medicine (NCCAOM)

17,653 Board Certified Acupuncturists

2025 M St NW, Ste 800

Washington DC, 20036

Ph: 888-381-1140, 202-381-1140

Name of other state or national organizations representing the profession:

None

States that regulate this profession:

47 states have some form of regulation over the practice of acupuncture, 3 do not. These states have regulations that will include the scope expansion that the profession seeks: Florida, New Mexico, Colorado, South Carolina, Utah, Washington

This proposal will be divided into two sections: Clarification of existing scope and expansion of existing scope:

Clarification of Existing Scope:

1. **Define the problem and why the change in regulation is necessary (refer to RCW 18.120.030(1)).** The definition of what is considered acupuncture is not clear enough for the general public and additional clarification is needed to assure that citizens understand the depth and breath of the practice of acupuncture. The problem is that there is currently confusion over the insertion of acupuncture (filiform) needles for therapeutic purposes with other professions using different terminology for the same procedures used by licensed acupuncturists in Washington state. RCW 18.120.030 states that:

(a) The nature of the potential harm to the public if the health profession is not regulated, and the extent to which there is a threat to public health and safety;

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(b) The extent to which consumers need and will benefit from a method of regulation identifying competent practitioners, indicating typical employers, if any, of practitioners in the health profession;

The potential harm to the public is when practitioners are not adequately trained or licensed to practice acupuncture in the state and the consumer becomes confused about what kind of treatment they are receiving and whether it is by a licensed practitioner with the treatment (acupuncture) within their scope of practice.

This is not intended to limit other professions from gaining access to acupuncture techniques legislatively with appropriate training, it only assures that these terms will also be understood as the practice of acupuncture, not to be superseded or disallowed by alternative definitions that may arise in the future.

To address this problem, we request a clarification in our scope of practice around what is considered acupuncture with the following language:

- a) (a) ((Acupuncture, including the)) Use of presterilized, disposable needles, such as filiform needles, and other acupuncture needles, syringes, or lancets to directly and indirectly stimulate meridians and acupuncture points, including ashi points, motor points, trigger points, intramuscular needling, dry needling, and other non-specific points throughout the body.
- b) (b) Use of electrical, mechanical, or magnetic devices to stimulate meridians and acupuncture points, including ashi points, motor points, trigger points, intramuscular needling, dry needling, and other non-specific points throughout the body. (See attached Exhibit A for a) and b).)

Ashi points and trigger points are already defined under the current East Asian Medicine Practitioner, WAC 246-803-030 (10)(b) which states “For the purposes of this section, includes trigger points as a subset of acupuncture points and Ashi points as recognized in the current practice of East Asian medicine.” This needs to be clarified in our scope of practice as well to prevent confusion by the general public regarding the practice of acupuncture.

Auricular or Ear Acupuncture has always been in the scope of practice for acupuncture as it is just another part of the body that practitioners treat. Due to the popularity of the procedure nationally with the Veteran’s Administration for reduction of anxiety, reduction of cravings and stress, often related to PTSD, and the opioid epidemic, we request that auricular acupuncture and the associated protocols be specifically identified to assure that the public clearly understands that this is a form of acupuncture regulated by the Washington State Department of Health. (See attached Exhibit B)

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- c) All points and protocols for ear acupuncture including auricular acupuncture, national acupuncture detoxification association protocol, battlefield acupuncture, and the Nogier system;

The stimulation of the acupuncture and Ashi points, either through insertion of needles or contacting the skin with non-inserting tools is also an existing form of acupuncture treatment. Non-inserting techniques still provide the benefit of acupuncture and are commonly used for children or other sensitive individuals who may have a low tolerance for needle insertion. (See attached Exhibit C)

- d) Use of contact needling and non-insertion tools that include but are not limited to teishin, enshin, zanshin.

2. Explain how the proposal addresses the problem and benefits the public (refer to RCW 18.120.030(4)). RCW 18.120.030 requires that the public and consumers clearly understand the profession and the treatments that they provide under state law. Other professions using acupuncture (filiform) needles therapeutically are practicing acupuncture under a different name causing confusion for the public. We want to assure that any use of acupuncture (filiform) needles for therapeutic purposes is considered acupuncture under the law. Public safety could be at risk with unauthorized use of acupuncture (filiform) needles, coupled with inadequate training and potentially operating outside of their scope of practice.

3. What is the minimum level of education and training necessary to perform the new skill or service based on objective criteria? All of the requested language changes above are already covered in master's level training provided by Washington states' approved acupuncture schools such as Bastyr University and others. The education ranges from 1,500 hours minimum to over 2,000 hours of training depending on the area of focus within the acupuncture and Eastern Medicine profession. A licensed acupuncturist must pass the NCCAOM board certification to practice in WA State.

4. Explain how the proposal ensures practitioners can safely perform the new skill or service (refer to RCW 18.120.030(1) and (4)). The objective is to clarify these terms in our definitions for acupuncture under RCW 18.06 to reduce confusion and clarify existing scope of practice. All licensed acupuncturists in Washington state must be board certified by the NCCAOM to be able to practice any of the techniques listed above and must be licensed by the state of Washington.

The benefit to the public if regulation is granted is the clarification and reduction of confusion for consumers who are unable to tell what is considered acupuncture treatments by a licensed health care practitioner with acupuncture in their scope of practice. This will assure that the public can identify qualified practitioners; thus, reducing the chance of injury by unqualified practitioners.

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5. Explain how the current education and training for the health profession adequately prepares practitioners to perform the new skill or service (refer to RCW 18.120.030(4)). Address the nature and duration of the education, training, and continuing education, including Washington curricula and accredited/approved out-of-state programs. Be specific on course content and credits/length applicable to the proposal: The clarifications above are not new skills or services for licensed acupuncturists in WA State, only clarifications of existing scope of practice.

All of the requested language changes above are already covered in master's level training provided by Washington states' approved acupuncture schools such as Bastyr University and others. The education ranges from 1,500 hours minimum to over 2,000 hours of training depending on the area of focus within the acupuncture and Eastern Medicine profession. A licensed acupuncturist must be board certified with the NCCAOM to practice in WA State.

6. Is an increase in education and training necessary? If so, are the approved educational institutions prepared to incorporate the increase? No increase in training is required for the improved clarity related to our existing scope of practice. The practitioner is required under the Uniform Disciplinary Act to have the appropriate training to practice any of the treatments listed above.

7. How does the proposal ensure that only qualified practitioners are authorized to perform the expanded scope of practice? By clarifying what is considered acupuncture, this should ensure that only qualified practitioners are authorized to perform acupuncture in Washington state.

8. If there are other factors in RCW 18.120.030 relevant to the proposal, please address them in detail. In the bill draft is the inclusion of "treating substance use disorder" under the definition of acupuncture or Eastern medicine. This is an additional clarification that acupuncture is considered a non-pharmacological approach towards easing symptoms associated with chemical dependency or substance use disorder for the treatment of pain, anxiety, depression, cravings and other related symptoms. Rules adopted by the Office of the Insurance Commissioner reflects this under the Essential Health benefits rule, WAC 284-43-5640 5 (a)(vi) Acupuncture treatment visits without application of the visit limitation requirements, when provided for chemical dependency and cravings related to substance use disorder. (Please see Exhibits I, I.1, I.2, I.3, I.4, I.5)

Expansion of Existing Scope of Practice

1. Define the problem and why the change in regulation is necessary (refer to RCW 18.120.030(1)). The problem is that our current statute, RCW 18.06.010 (1), list of approved substances for Point Injection Therapy (PIT) doesn't include local anesthetics, epinephrine and oxygen which are commonly used for PIT and part of the training curriculum for a practitioner approved to provide this treatment. A change in the regulation is needed to include these

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substances that will provide for the comfort and safety of patients receiving this treatment as well as match the education that the practitioners are receiving for the practice of PIT.

Adding these substances will provide patients of acupuncture and Eastern medicine practitioners access to the same substances as are used by other practitioners (physicians, nurse practitioners, naturopaths, physician assistants) who perform trigger point or point injection therapy. (Please see Exhibit D.1, D.2, D.3)

To address this problem, we request a change in our scope of practice to include the following language:

(j) (l) Point injection therapy as defined in rule by the department. Point injection therapy includes injection of substances, including sterile saline, sterile water, herbs, minerals, vitamins in liquid form, and homeopathic and nutritional substances, and local anesthetics consistent with the practice of acupuncture or Eastern medicine. An acupuncturist or acupuncture and Eastern medicine practitioner using point injection therapy who has met the training and education requirement established in rule may use local anesthetics, oxygen and epinephrine for potential emergency purposes for patient care and safety.

- a) **Local anesthetic** is a substance used to temporarily numb a small area of the body and are not considered Controlled Substances in Schedule I-V. Local anesthetic use is standard practice in Point Injection Therapy and is used to help numb the pain of certain injections of allowable substances under RCW 18.06.010 (j) for the comfort of the patient. Local anesthetics are currently being used by primary care providers, naturopaths, dental hygienists, midwives and in long-term care facilities by certified nursing assistants through nurse delegation. (See Exhibit D above)
- b) **Epinephrine** is an injected substance commonly used to treat allergic reactions such as anaphylaxis. Currently acupuncturists (East Asian Medicine Practitioners-EAMP) are allowed to use an epinephrine injection in the form of an EpiPen autoinjector in RCW 70.54.440. (WAC 246-803-040 Education and training for point injection therapy: 2-hour EpiPen training already required) We are requesting that epinephrine for intramuscular injection be added to the list of injectable substances in statute. (See Exhibit D above)

The cost of EpiPens has skyrocketed in recent years and they have a relatively short shelf life. Being able to purchase epinephrine directly from approved wholesale manufactures would make the cost more viable for practitioners to be able to stock this substance and have available in case of emergency. The current WAC requires the epinephrine training but does not require that a practitioner must keep it available in their practice. Current requirements for storing and maintaining EpiPens is cost prohibitive for most EAMPs.

- c) **Oxygen (O2)** is commonly used for patient care and safety to treat allergic reactions, needle

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shock and along with epinephrine use, is currently offered in PIT training. Under the current law, if an EAMP wishes to have O2 in their office, a prescription from a primary care provider must be obtained. This is a hardship that is unnecessary. Like the EpiPen, training must be obtained, but neither the EpiPen or O2 in the office is required in order to perform PIT. (See Exhibit D above)

2. Explain how the proposal addresses the problem and benefits the public (refer to RCW 18.120.030(4)).

- a) Local anesthetics are commonly used by acupuncturists who are legally authorized to perform PIT and other health care practitioners to manage minor pain that may accompany an injection for a patient. This will benefit the public by allowing a measure of comfort for the patients receiving PIT treatments when appropriate.
- b) This proposal increases public safety by adding oxygen and epinephrine to the list of substances to be used to treat responses that could be associated with PIT. The benefit to the public is that the response time to address an allergic reaction could be lifesaving for a patient.
- c) Adding these substances will provide patients of acupuncture and Eastern medicine practitioners access to the same substances as are used by other practitioners (physicians, nurse practitioners, naturopaths, physician assistants) who perform trigger point or point injection therapy. (See Exhibit D.1 above)

An EAMP will still be required to initiate an emergency response to an allergic reaction under RCW 18.06.140 Consultation with other health care practitioners—Patient waiver—Emergencies—Penalty, (2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

The addition of local anesthetics, epinephrine and oxygen will provide patients of Acupuncture and Eastern Medicine practitioners (AEMPs) access to the same substances as are used by other practitioner who perform trigger point or point injection therapy (PIT). They are all a part of modern PIT. (see Exhibit D.1)

Suppliers of injectables for PIT and educators will have a clear sense of what can be used by an AEMP. If the expanded list of approved substances is accepted; the list would be consistent with other states and with the current training that is available. (Please see Exhibit E.1, E.2)

3. What is the minimum level of education and training necessary to perform the new skill or service based on objective criteria?

- a) **Local anesthetics:** As part of current Point Injection Therapy (PIT) training nationally, the use of local anesthetics is commonly taught as part of their curriculum in 24-hour training sessions. According to Christina Captain, DAOM who currently teaches PIT classes in WA, local anesthetics are given a minimum of 1.5 hours of lecture and 8 hours of clinical

training. The NCCAOM has programs accrediting PIT trainings. The areas where local anesthetics such as lidocaine or procaine are commonly used are trigger points, tendons, scars and adhesions. They are “points” of tightness, tenderness, or discomfort anywhere in the body that may affect movement and normal function, or the quality of life of people affected by them. (Exhibit F.1, F.2, F.3)

b) Epinephrine and Oxygen: Regarding training in the use of epinephrine and oxygen, of the 24 hours that the DOH requires before performing PIT, up to 2 hours is required for the use of epinephrine. There is ample time within that 2 hours to teach the safe use of epinephrine and oxygen in a clinical setting. (Please see Exhibit G.1, G.2, G.3)

4. Explain how the proposal ensures practitioners can safely perform the new skill or service (refer to RCW 18.120.030(1) and (4)). We believe that we can ensure that practitioners can perform the new skill or service listed above in question #3 in addition to the current training required in WAC 246-803-040 Education and training for point injection therapy listed below:

WAC 246-803-040: East Asian medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy must:

(a) Consist of a minimum total of twenty-four contact hours of training in the topics required in this section;

(b) Include at least eight hours of clinical practical experience; and

(c) Be administered by an instructor that meets the requirements of subsection (4) of this section.

(2) A curriculum for a point injection therapy training program must include:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Emergency procedures;

(d) Point injection therapy techniques and contraindication within the East Asian medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (10)(a)(i) through (vi).

(3) Except for the training in the use of intramuscular epinephrine, the training must be delivered in person and not through webinar or other online or distance learning method.

(4) An instructor for point injection therapy must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

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(5) In addition to point injection therapy meeting the requirements of subsections (1) and (2) of this section, East Asian medicine practitioners using point injection therapy must complete training in the use of intramuscular epinephrine.

(a) Training in the use of intramuscular epinephrine must be according to RCW [70.54.440\(4\)](#).

(b) This training may be taken separately from the training in point injection therapy.

(c) Up to two hours of training in the use of intramuscular epinephrine count in meeting the requirement for twenty-four hours of training.

(d) An East Asian medicine practitioner who holds an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine does not need to meet the requirements of (a) of this subsection.

(6) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

(7) The requirements of subsections (1) through (6) of this section do not apply to an East Asian medicine practitioner who has provided point injection therapy prior to July 1, 2017. East Asian medicine practitioners using point injection therapy prior to July 1, 2017, must have completed training and education in point injection therapy.

(8) Any East Asian medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

5. Explain how the current education and training for the health profession adequately prepares practitioners to perform the new skill or service (refer to RCW 18.120.030(4)). Address the nature and duration of the education, training, and continuing education, including Washington curricula and accredited/approved out-of-state programs. Be specific on course content and credits/length applicable to the proposal:

All practitioners in WA state must first pass the board certified NCCAOM exams which adequately prepare them to perform the services with the additional training.

a) Local anesthetics: As part of current Point Injection Therapy (PIT) training nationally, the use of local anesthetics is commonly taught as part of their curriculum in 24-hour training sessions. According to Christina Captain, DAOM who currently teaches PIT classes in WA, local anesthetics are given a minimum of 1.5 hours of lecture and 8 hours of clinical training. The NCCAOM has programs accrediting PIT trainings. The areas where local anesthetics such as lidocaine or procaine are commonly used are trigger points, tendons, scars and adhesions. They are “points” of tightness, tenderness, or discomfort anywhere in the body that may affect movement and normal function, or the quality of life of people affected by them. (See Exhibit F.1, F.2, F.3)

b) Epinephrine and oxygen: Regarding training in the use of Epinephrine and Oxygen, of the 24 hours that the DOH requires before performing Point Injection Training, up to 2

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hours is required for the use of Epinephrine. There is ample time within that 2 hours to teach the safe use of epinephrine and oxygen in a clinical setting. (See Exhibit G.1, G.2, G.3)

6. Is an increase in education and training necessary? If so, are the approved educational institutions prepared to incorporate the increase? Yes, an increase in training is necessary for the use of the substances proposed in the scope expansion and would be required under WAC 246-803-040. Currently there are a number of NCCAOM approved educational institutes providing necessary education and training for PIT that includes local anesthetics, oxygen and epinephrine within the 24 hours required. (See Exhibit F.2, F.3, G.1, G.2)

7. How does the proposal ensure that only qualified practitioners are authorized to perform the expanded scope of practice? WAC 246-803-040 Education and training for point injection therapy clearly states that East Asian medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training. The new substances would be enforceable under this WAC.

The new language proposed in the bill draft also includes training requirements:

Section 2 (3) Prior to administering local anesthetics, oxygen and epinephrine in providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must obtain the education and training necessary to provide these substances. The department shall adopt rules by July 1, 2021, to specify the education and training necessary to administer local anesthetics, oxygen and epinephrine.

8. If there are other factors in RCW 18.120.030 relevant to the proposal, please address them in detail. (Please see additional research articles in Exhibit H.1, H.2, H.3, H.4, H.5, H.6, H.7, H.8)