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Ethics In Acupuncture #2

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Ethics in Acupuncture #2

This course presents an overview of medical ethics and then examines ethical and legal patient privacy considerations. Topics covered include:

- Sign-In Sheets
- Consent
- Maintenance of Records Over Time
- Disposal of Medical Records
- Marketing
- Media Coverage
- Legal Authorization For Release
- Sharing Patient Information For Treatment Purposes
- Workers Compensation
- Disability, Abuse, and Neglect Exemption
- Confidential Conversations
- Answering Machines
- Collection of Payment

Medical Ethics

Ethics are moral principles that act as guidelines for behavior. They act as a guiding philosophy, impart moral importance and help discern right from wrong. Although ethics correlate to legality, ethical obligations are often greater than what is legally required. Conversely, simply because something is legal does not necessarily make it ethical. The following is an excerpt from the American Medical Association's website on the topic of the relation of law and ethics:

Ethical values and legal principles are usually closely related, but ethical obligations typically exceed legal duties. In some cases, the law mandates unethical conduct. In general, when physicians believe a law is unjust, they should work to change the law. In exceptional circumstances of unjust laws, ethical responsibilities should supersede legal obligations.

The fact that a physician charged with allegedly illegal conduct is acquitted or exonerated in civil or criminal proceedings does not necessarily mean that the physician acted ethically.¹

While it is ethical to practice acupuncture, it is not legal to practice it in many jurisdictions and settings. Likewise, there are acupuncture procedures that are ethical to perform but lack legal support in state scope of practice definitions. The same is true for herbal medicines. Herbs may be illegal that are safe and effective. In all cases,

¹ <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion102.page?> 1-1-16.

acupuncturists must abide by the law but ethics imparts the responsibility of working towards changing the laws for the betterment of humanity.

We start with presenting the AMA (American Medical Association) principles of ethics and then examine the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) code of ethics. Next, we'll take a close look at healthcare privacy law.

AMA Code of Ethics

The AMA states in their principles of medical ethics preamble, "As a member of this profession, a physician must recognize responsibility to patients first and foremost, as well as to society, to other health professionals, and to self." There are nine AMA principles of medical ethics:

1. A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.
2. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.
3. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.
4. A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.
5. A physician shall continue to study, apply, and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.
6. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care.
7. A physician shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.
8. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

9. A physician shall support access to medical care for all people.

Acceptance and Research

Growing acceptance of acupuncturists and herbalists by MDs and integration of acupuncture and herbal medicine into conventional health care settings (including hospitals) is consistent with principle #5: "A physician shall continue to study, apply, and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated." There is an outpouring of medical research supporting the efficaciousness of acupuncture and herbal medicine. This is, in part, responsible for greater acceptance of acupuncture and herbal medicine by MDs, DOs, and other health care professionals. To view the latest research, visit healthcmi.com and go to the news section. At the Healthcare Medicine Institute, we offer a free news service featuring original translations of research from China, Japan, and Korea in addition to featuring research in the USA, Europe, and many other regions.

The following are three short excerpts of research published in the healthcmi.com news portal:

1. *A Stanford University study finds acupuncture effective for reducing the need for sedative medications for neonates and infants undergoing treatments in the intensive care unit. Dr. Golianu, MD (Department of Anesthesiology, Stanford University), Christina Almgren, PNP (Stanford Children's Health, Stanford University), et. al., note that high doses of opioids and benzodiazepines are often required for neonates and infants for the purposes of pain management and sedation. Cessation from medications lead to withdrawal symptoms and irritability. The researchers cite acupuncture's documented ability to reduce pain, irritability and withdrawal symptoms in adults.*

Full article:

<http://www.healthcmi.com/Acupuncture-Continuing-Education-News/1391-acupuncture-helps-stanford-intensive-care-infants>

2. *Stanford University doctors conclude that acupuncture during surgery reduces pain. Research published in 'The Laryngoscope' finds acupuncture effective for reducing pain and improving restoration of a normal diet postoperatively when acupuncture is applied during surgery.*

Full article:

<http://www.healthcmi.com/Acupuncture-Continuing-Education-News/1452-stanford-university-acupuncture-reduces-pain-after-surgery>

3. A Stanford University study finds acupuncture safe and cost-effective for relieving pain in children. Dr. Golianu, MD (Department of Anesthesiology, Stanford University), et. al., note research confirming that acupuncture is “useful in chronic pain conditions” adding that it may be clinically valuable in an integrative medical setting.

Full article:

<http://www.healthcmi.com/Acupuncture-Continuing-Education-News/1397-acupuncture-eases-pain-for-children-stanford-university>

Another reason for growing acceptance of acupuncture and herbal medicine is quality positive patient outcomes produced by licensed acupuncturists every day. Changing the lives of individuals by improving health makes itself known. Word of mouth continues to be one of the most important ways to reach the general public.

Access

Access to care involves issues of transportation, disability, knowledge, referral, and finance. Item #9 reads, “A physician shall support access to medical care for all people.” This item raises many questions:

- Who or what entity pays for medical care?
- What types of medical care are covered by insurance and government programs?
- When is a referral to another type of health care provider appropriate?
- What limits are placed on access to medical care?
- Who or what entity is responsible for providing or ensuring medical care?
- What legislation is appropriate to ensure access to care?
- What is culturally appropriate medicine?
- What provisions exist for pain management?

Answers to these questions may be controversial or political. Many agree that access to health care for all people is a humanitarian right. However, implementation of solutions requires widespread changes in our society. Of those believing in universal access to health care, many may have differing opinions as to how this will be achieved.

NCCAOM Code of Ethics

The NCCAOM has a code of ethics for all diplomates:

- Respect the rights, privacy and dignity of my patients and maintain confidentiality and professional boundaries at all times.

- Treat within my lawful scope of my practice and training and only if I am able to safely, competently and effectively do so.
- Allow my patients to fully participate in decisions related to their healthcare by documenting and keeping them informed of my treatments and outcomes.
- Accept and treat those seeking my services in a fair and nondiscriminatory manner
- Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate.
- Continue to advance my knowledge through education, training and collaboration with my colleagues to maintain excellence and high ethical standards in our profession.
- Support my medicine's access to all people and its growth in the broad spectrum of U.S. health care.
- Assist in the professional development and advancement of my colleagues.
- Participate in activities that contribute to the betterment of my community.

Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, sets national standards for healthcare related electronic health care transactions and code sets, unique health identifiers, and security. Patient records and information of licensed acupuncturists fall under the purview of HIPAA. The NCCAOM code to "Respect the rights, privacy and dignity of my patients and maintain confidentiality and professional boundaries at all times" relates to the Health Insurance Portability and Accountability Act and therefore both ethical and legal considerations apply.

The U.S. Department of Health & Human Services (HHS) is in charge with the responsibility of protecting the health and well-being of all US citizens. HHS published a HIPAA Privacy Rule and a Security rule. Compliance is mandatory. This Privacy Rule sets national standards for the protection of individually identifiable health information by three types of covered entities: health plans, health care clearinghouses, and health care providers who conduct the standard health care transactions electronically. The Security Rule sets national standards for protecting the confidentiality, integrity, and availability of electronic protected health information (PHI).

Protected health information (PHI) includes:

- Patient information for acupuncturists, doctors, nurses, and other health care providers put in medical records
- Patient conversations with the acupuncturist, doctor or health care provider has about care or treatment with nurses and others
- Patient information in the health insurer's computer system
- Billing information about the patient at the acupuncturist clinic
- Most other patient health information held by those who must follow these laws

Sign-In Sheets

The HHS rules allow for sign-in sheets but the information is strictly limited to names. Do not have something like "major complaint" or "purpose of visit" on your sign-in sheet. HHS notes:

May physician's offices use patient sign-in sheets or call out the names of their patients in their waiting rooms?

Answer

Yes. Covered entities, such as physician's offices, may use patient sign-in sheets or call out patient names in waiting rooms, so long as the information disclosed is appropriately limited. The HIPAA Privacy Rule explicitly permits the incidental disclosures that may result from this practice, for example, when other patients in a waiting room hear the identity of the person whose name is called, or see other patient names on a sign-in sheet. However, these incidental disclosures are permitted only when the covered entity has implemented reasonable safeguards and the minimum necessary standard, where appropriate. For example, the sign-in sheet may not display medical information that is not necessary for the purpose of signing in (e.g., the medical problem for which the patient is seeing the physician).

Sign-in sheets may help to prove a patient was treated on a particular day if that information is requested by an insurance carrier or other external entity. It is illegal to change the date of service. All bills and medical records must match the exact date of service. A patient may request shifting the date by a few days for insurance coverage purposes. Ethically, it may seem harmless. However, this is fraud and dates must never be altered for any reason. Alterations make the acupuncturist subject to severe penalties, fines, or imprisonment.

Consent

HIPPA covers privacy and not consent. Consent to treatment relates to the patient intake information form signed prior to the first office visit or treatment. A consent to treat signature is required and is governed by state or regional regulations, not HIPAA. HIPAA covers the privacy and security of patient information but is unrelated to the

requirement for a consent to treat form. HIPAA governs the privacy and security of the information once it is gathered. HHS notes:

How does the HIPAA Privacy Rule change the laws concerning consent for treatment?

Answer:

The Privacy Rule relates to uses and disclosures of protected health information, not to whether a patient consents to the health care itself. As such, the Privacy Rule does not affect informed consent for treatment, which is addressed by State law.

Consent to treat form requirements vary from state to state and malpractice insurance carriers may require additional information or an arbitration form. A typical consent to treat form includes:

- patient's name
- address
- today's date
- date of birth
- personal contact information
- emergency contact information
- name of treating physician
- medical history including allergies and medications

Auto personal injury and workers compensation insurance companies may require a social security number (SSN) for reimbursement because the SSN is used as part of the patient's insurance identification number for the carrier. Consent forms usually inform the patient concerning possible adverse effects and warnings associated with treatment and may look like the following:

- Sometimes, after receiving an acupuncture treatment, you may feel a little bit light-headed. If that is the case, please sit for a while in the reception area.
- You may get a small hematoma (a small bruise under the skin) after an acupuncture needle is removed.
- Medicinal herbs are intended only for the person for which they are given to.

Although not required in all areas, an important question for the intake form is: "Is there any chance that you are pregnant?" The patient's signature is always required and usually follows a statement similar to the following: "My signature authorizes (name of acupuncturist) to treat me with acupuncture and Chinese medicinal herbs within the licensure granted by the (state medical board name)." HIPAA pertains to the safeguarding of this information once gathered but HIPAA does not require obtaining the information.

Maintenance of Records Over Time

States, health insurance carriers, and malpractice/liability insurance carriers often set requirements for maintaining patient records for a period of time. HIPAA covers privacy and security but does not require acupuncturists to maintain patient records for a period of time. HHS notes:

Does the HIPAA Privacy Rule require covered entities to keep patients' medical records for any period of time?

No, the HIPAA Privacy Rule does not include medical record retention requirements. Rather, State laws generally govern how long medical records are to be retained. However, the HIPAA Privacy Rule does require that covered entities apply appropriate administrative, technical, and physical safeguards to protect the privacy of medical records and other protected health information (PHI) for whatever period such information is maintained by a covered entity, including through disposal. See 45 CFR 164.530(c).

Acupuncturists are required by law to maintain medical records for several years in most states and countries but this is unrelated to HIPAA. Additional requirements for medical record retention may be made by malpractice insurance carriers. Health insurance companies may also require standards of medical records as prerequisite for reimbursement and participation in in-network panels. The State of California has this regulation:

1399.453. Record keeping.

An acupuncturist shall keep complete and accurate records on each patient who is given acupuncture treatment, including but not limited to, treatments given and progress made as a result of the acupuncture treatments.

The following is from the State of Florida rules and is representative of standard requirements in many areas:

64B1-10.001 Content and Retention of Medical Records.

(1) Acupuncturists are required to maintain written medical records justifying the course of treatment of each patient. These records must include for each patient at least the following:

- (a) Patient's Medical History;
- (b) Acupuncture Diagnostic Impressions;
- (c) Points Used and/or Treatment Procedures Administered at Each Visit;
- (d) Acupuncturists' Recommendations;
- (e) Patient Progress Notes;
- (f) Laboratory test results when appropriate and medically necessary; and
- (g) Imaging films, reports or test results when appropriate and medically necessary.

(2) All medical records must be maintained by the acupuncturist for a period of five (5) years from the date of the last entry to the record.

Medical records must be maintained for a period of 5 years in the above regulation. In some states, this requirement is significantly longer than 5 years. The general rule is to use SOAP notes in order to comply with state regulations. SOAP is an abbreviation for: subjective, objective, assessment, plan.

The S in SOAP is for the subjective portion of the chart notes. This includes information that the patient verbally relays to the acupuncturist. This may include the frequency, intensity and duration of a complaint. The patient history is included in this section. Technically, this information is not considered factual data.

The O in SOAP is for objective. This is considered factual data. Objectives are observations made directly by the acupuncturist or other medical professional. This includes a variety of information including test results. Blood pressure, weight, clinical observations, range of motion and other signs are noted here. The objectives may also include clinical observations concerning a patient's psychological state.

The A is for assessment. This is the diagnosis section. This may include a differential diagnosis according to Traditional Chinese Medicine (TCM) principles and a biomedical diagnosis. Some insurance carriers will not reimburse for acupuncturist services unless a biomedical diagnosis is made and a corresponding CPT code is assigned in the billing information. If a diagnosis cannot be made, a list of possible diagnoses may be included in this section. Evaluation of diagnostic tests and need for referral may be discussed in this section.

The P in SOAP is for plan. This is the determination of what type of treatment is to be rendered. This may include acupuncture points, herbal medicines, work restrictions and dietary recommendations. The plan may have both short term and long term goals for patient health.

SOAP notes may include abbreviations to assist in quick documentation of clinical findings. For example, eap is an abbreviation of electroacupuncture. Importantly, SOAP notes are legally confidential documents. Patient privacy laws apply. This includes the maintenance, storage and proper disposal of records.

Disposal of Medical Records

If using an external company to shred your patient PHI, ensure that they are HIPAA compliant. Often, shredding companies are certified by the National Association of Information Destruction (NAID), an international trade association for companies providing information destruction services. NAID certification is not required but it is a plus. NAID has its own code of ethics for members:

Members shall not by any means engage in, nor allow the use of, statements that are false, misleading, incomplete, or likely to mislead consumers or members of the public.

Members shall respect the confidential nature of the customers' records and shall maintain appropriate protection to prevent any disclosure of such information except when required by law.

Members shall uphold and improve the integrity of the industry by affirmations of truth, fairness and professional conduct.

Members shall not consider or represent general office paper recycling as a form of destruction.

Members shall provide opportunities for the interchange of experience, opinions and knowledge through meetings, discussions and publications, for the improvement of the industry, and for the benefit of customers.

Members shall price their services in a manner that accurately reflects the terms of service and pricing as understood by the client.

Members shall promote the purpose and effectiveness of the information destruction industry by any and all means consistent with the public interest.

Members shall abide by Federal, State and local laws and regulations.

Members shall abide by, and be subject to, the By-Laws of the Association.

Members shall deal fairly with their customers, employees and suppliers.

Members shall be good corporate citizens by serving the community.

Members shall be honest, truthful and fair to all concerned.

The HHS is very specific concerning the disposal of health records. The HHS notes, "For PHI in paper records, shredding, burning, pulping, or pulverizing the records so that PHI is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed." The following provides greater detail of HHS guidelines:

What do the HIPAA Privacy and Security Rules require of covered entities when they dispose of protected health information?

The HIPAA Privacy Rule requires that covered entities apply appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information (PHI), in any form. See 45 CFR 164.530(c). This means that covered entities must implement reasonable safeguards to limit incidental, and avoid prohibited, uses and disclosures of PHI, including in connection with the disposal of such information. In addition, the HIPAA Security Rule requires that covered entities implement policies and procedures to address the final disposition of electronic PHI and/or the hardware or electronic media on which it is stored, as well as to implement procedures for removal of electronic PHI from electronic media before the media are made available for re-use. See 45 CFR 164.310(d)(2)(i) and (ii). Failing to implement reasonable safeguards to protect PHI in connection with disposal could result in impermissible disclosures of PHI.

Further, covered entities must ensure that their workforce members receive training on and follow the disposal policies and procedures of the covered entity, as necessary and appropriate for each workforce member. See 45 CFR 164.306(a)(4), 164.308(a)(5), and 164.530(b) and (i). Therefore, any workforce member involved in disposing of PHI, or who supervises others who dispose of PHI, must receive training on disposal. This includes any volunteers. See 45 CFR 160.103 (definition of “workforce”).

Thus, covered entities are not permitted to simply abandon PHI or dispose of it in dumpsters or other containers that are accessible by the public or other unauthorized persons. However, the Privacy and Security Rules do not require a particular disposal method. Covered entities must review their own circumstances to determine what steps are reasonable to safeguard PHI through disposal, and develop and implement policies and procedures to carry out those steps. In determining what is reasonable, covered entities should assess potential risks to patient privacy, as well as consider such issues as the form, type, and amount of PHI to be disposed. For instance, the disposal of certain types of PHI such as name, social security number, driver’s license number, debit or credit card number, diagnosis, treatment information, or other sensitive information may warrant more care due to the risk that inappropriate access to this information may result in identity theft, employment or other discrimination, or harm to an individual’s reputation.

In general, examples of proper disposal methods may include, but are not limited to:

- For PHI in paper records, shredding, burning, pulping, or pulverizing the records so that PHI is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed.
- Maintaining labeled prescription bottles and other PHI in opaque bags in a secure area and using a disposal vendor as a business associate to pick up and shred or otherwise destroy the PHI.
- For PHI on electronic media, clearing (using software or hardware products to overwrite media with non-sensitive data), purging (degaussing or exposing the media to a strong magnetic field in order to disrupt the recorded magnetic domains), or destroying the media (disintegration, pulverization, melting, incinerating, or shredding).

For more information on proper disposal of electronic PHI, see the HHS HIPAA Security Series 3: Security Standards – Physical Safeguards. In addition, for practical information on how to handle sanitization of PHI throughout the information life cycle, readers may consult NIST SP 800-88, Guidelines for Media Sanitization.

Other methods of disposal also may be appropriate, depending on the circumstances. Covered entities are encouraged to consider the steps that other prudent health care and health information professionals are taking to protect patient privacy in connection with record disposal. In addition, if a covered entity is winding up a business, the covered entity may wish to consider giving patients

the opportunity to pick up their records prior to any disposition by the covered entity (and note that many states may impose requirements on covered entities to retain and make available for a limited time, as appropriate, medical records after dissolution of a business).

Marketing

Licensed acupuncturists do not have the ability to share patient information with marketing companies without prior authorization. HHS notes:

When is an authorization required from the patient before a provider or health plan engages in marketing to that individual?

Answer:

The HIPAA Privacy Rule expressly requires an authorization for uses or disclosures of protected health information for ALL marketing communications, except in two circumstances:

- 1 When the communication occurs in a face-to-face encounter between the covered entity and the individual; or
- 2 The communication involves a promotional gift of nominal value.

If the marketing communication involves direct or indirect remuneration to the covered entity from a third party, the authorization must state that such remuneration is involved.

As a result, hiring a third party to send information directly to patients such as brochures, pamphlets, and coupons without prior patient authorization is a violation of the privacy rules.

Media Coverage

HIPAA protections apply to using media coverage. The press may want to do a highlight of your practice. Be sure to obtain authorizations from the patients involved in any media gathered or released. HHS notes of protected health information (PHI):

Can health care providers invite or arrange for members of the media, including film crews, to enter treatment areas of their facilities without prior written authorization?

Answer:

Health care providers cannot invite or allow media personnel, including film crews, into treatment or other areas of their facilities where patients' PHI will be accessible in written, electronic, oral, or other visual or audio form, or otherwise make PHI accessible to the media, without prior written authorization from each individual who is or will be in the area or whose PHI otherwise will be accessible to the media. Only in very limited circumstances, as set forth below, does the HIPAA Privacy Rule permit health care providers to disclose protected health information to members of the media without a prior authorization signed by the individual.

A covered entity, including a health care provider, may not use or disclose protected health information (PHI), except either: (1) as the HIPAA Privacy Rule permits or requires; or (2) as the individual who is the subject of the information (or the individual's personal representative) authorizes in writing. Generally, the HIPAA Privacy Rule does not permit health care providers to disclose PHI to media personnel, including film crews, without having previously obtained a HIPAA-compliant authorization signed by the patient or his or her personal representative. In other words, health care providers may not allow members of the media, including film crews, into treatment areas of their facilities or other areas where PHI will be accessible in written, electronic, oral or other visual or audio form, without prior authorization from the patients who are or will be in the area or whose PHI will be accessible to the media. It is not sufficient for a health care provider to request or require media personnel to mask the identities of patients (using techniques such as blurring, pixelation, or voice alteration software) for whom an authorization was not obtained, because the HIPAA Privacy Rule does not allow media access to the patients' PHI, absent an authorization, in the first place.

In addition, the health care provider must ensure that reasonable safeguards are in place to protect against impermissible disclosures or to limit incidental disclosures of other PHI that may be in the area but for which an authorization has not been obtained.

There are very limited situations in which the HIPAA Privacy Rule permits a covered entity to disclose limited PHI to the media without obtaining a HIPAA authorization. For example, a covered entity may seek to have the media help identify or locate the family of an unidentified and incapacitated patient in its care. In that case, the covered entity may disclose limited PHI about the incapacitated patient to the media if, in the hospital's professional judgment, doing so is in the patient's best interest. See 45 C.F.R. 164.510(b)(1)(ii). In addition, a covered entity may disclose a patient's location in the facility and condition in general terms that do not communicate specific medical information about the individual to any person, including the media, without obtaining a HIPAA authorization where the individual has not objected to his information being included in the facility directory, and the media representative or other person asks for the individual by name. See 45 C.F.R. 164.510(a).

The HIPAA Privacy Rule does not require health care providers to prevent members of the media from entering areas of their facilities that are otherwise generally accessible to the public, which may include public waiting areas or areas where the public enters or exits the facility.

A health care provider may utilize the services of a contract film crew to produce training videos or public relations materials on the provider's behalf if certain protections are in place. If patients are to be identified by the provider and interviewed by a film crew, or if PHI might be accessible during filming or otherwise disclosed, the provider must enter into a HIPAA business associate agreement with the film crew acting as a business associate. Among other requirements, the business associate agreement must ensure that the film crew will safeguard the PHI it obtains, only use or disclose the PHI for the purposes provided in the agreement, and return or destroy any PHI after the work for the health care provider has been completed. See 45 C.F.R. 164.504(e)(2). As a business associate, the film crew must comply with the HIPAA Security Rule and a number of provisions in the Privacy Rule, including the Rule's restrictions on the use and disclosure of PHI. In addition, authorizations from patients whose PHI is included in any materials would be required before such materials are posted online, printed in brochures for the public, or otherwise publicly disseminated.

Finally, covered entities can continue to inform the media of their treatment services and programs so that the media can better inform the public, provided that, in doing so, the covered entity does not share PHI with the media without the prior authorization of the individuals who are the subject of the PHI.

Legal Authorization For Release

Acupuncturists are advised to seek legal counsel to obtain the appropriate authorization paperwork for purposes of marketing and media coverage. The same applies to information about patients supplied to research projects. In addition, it is advisable to consult with your comprehensive liability insurance carrier (malpractice insurance company) to ensure compliance. It may seem harmless to interview a patient about the benefits of acupuncture and to post it on Youtube or a website. However, prior authorization is necessary. Care must be used when engaging in community outreach, advertising, and social media. Although informal verbal consent from a patient may seem ethical, it is not the required legal protection required by HIPAA. The following is an example of what a simple release form may look like. This is only a sample and is not for legal use. (Check with legal counsel to ensure that a form that is used fits federal, state, local, and carrier requirements.)

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

I, (Name of patient), hereby authorize (Name of person or facility which has information) to release the following health information: _____

To: (Name and title or facility name to receive health information)

(Street address, city, state, ZIP code, Telephone number, Fax number)

For the following purposes: _____

This authorization is in effect until (date or event), when it expires.

I understand that by signing this authorization:

- authorize the use or disclosure of my individually identifiable health information as
- described above for the purpose listed.
- I have the right to withdraw permission for the release of my information. If I sign this
- authorization to use or disclose information, I can revoke that authorization at any time.
- revocation must be made in writing and will not affect information that has already
- been used or disclosed.
- I have the right to receive a copy of this authorization.
- I am signing this authorization voluntarily and treatment, payment, or my eligibility for
- benefits will not be affected if I do not sign this authorization.
- I further understand that a person to whom records and information are disclosed pursuant
- to this authorization may not further use or disclose the medical information unless another
- authorization is obtained from me or unless such disclosure is specifically required or
- permitted by law.

Signed by Patient: _____ Date:

Or Signed by Personal Representative: _____ Date:

On Behalf of: (Name of Patient)

Copy of Identification Attached (Drivers License, Birth Certificate, State or Federal ID Card) If no identification is provided, a notarized signature is required for this document.

The HHS stipulates:

An authorization must specify a number of elements, including a description of the protected health information to be used and disclosed, the person authorized to make the use or disclosure, the person to whom the covered entity may make the disclosure, an expiration date, and, in some cases, the purpose for which the information may be used or disclosed. With limited exceptions,

covered entities may not condition treatment or coverage on the individual providing an authorization.

Sharing Patient Information For Treatment Purposes

Under the Privacy Rule, the HHS notes that health care providers may share patient information for treatment purposes:

Does the HIPAA Privacy Rule permit doctors, nurses, and other health care providers to share patient health information for treatment purposes without the patient's authorization?

Answer:

Yes. The Privacy Rule allows those doctors, nurses, hospitals, laboratory technicians, and other health care providers that are covered entities to use or disclose protected health information, such as X-rays, laboratory and pathology reports, diagnoses, and other medical information for treatment purposes without the patient's authorization. This includes sharing the information to consult with other providers, including providers who are not covered entities, to treat a different patient, or to refer the patient.

This statement on sharing patient health information is taken from the Code of Federal Regulations, Title 45, Public Welfare, 164.506 (45 CFR 164.506). The following is the federal code:

Uses and disclosures to carry out treatment, payment, or health care operations.

(a) Standard: Permitted uses and disclosures. Except with respect to uses or disclosures that require an authorization under § 164.508(a)(2) and (3), a covered entity may use or disclose protected health information for treatment, payment, or health care operations as set forth in paragraph (c) of this section, provided that such use or disclosure is consistent with other applicable requirements of this subpart.

(b) Standard: Consent for uses and disclosures permitted. (1) A covered entity may obtain consent of the individual to use or disclose protected health information to carry out treatment, payment, or health care operations.

(2) Consent, under paragraph (b) of this section, shall not be effective to permit a use or disclosure of protected health information when an authorization, under § 164.508, is required or when another condition must be met for such use or disclosure to be permissible under this subpart.

(c) Implementation specifications: Treatment, payment, or health care operations.

- (1) A covered entity may use or disclose protected health information for its own treatment, payment, or health care operations.
- (2) A covered entity may disclose protected health information for treatment activities of a health care provider.
- (3) A covered entity may disclose protected health information to another covered entity or a health care provider for the payment activities of the entity that receives the information.
- (4) A covered entity may disclose protected health information to another covered entity for health care operations activities of the entity that receives the information, if each entity either has or had a relationship with the individual who is the subject of the protected health information being requested, the protected health information pertains to such relationship, and the disclosure is:
 - (i) For a purpose listed in paragraph (1) or (2) of the definition of health care operations; or
 - (ii) For the purpose of health care fraud and abuse detection or compliance.
- (5) A covered entity that participates in an organized health care arrangement may disclose protected health information about an individual to another covered entity that participates in the organized health care arrangement for any health care operations activities of the organized health care arrangement.

This code allows licensed acupuncturists to work with other licensed health care providers and share patient information for purposes of treatment. The same applies to working with specialists. The HHS notes:

Does a physician need a patient's written authorization to send a copy of the patient's medical record to a specialist or other health care provider who will treat the patient?

Answer:

No. The HIPAA Privacy Rule permits a health care provider to disclose protected health information about an individual, without the individual's authorization, to another health care provider for that provider's treatment of the individual.

Can a physician's office fax patient medical information to another physician's office?

Answer:

The HIPAA Privacy Rule permits physicians to disclose protected health information to another health care provider for treatment purposes. This can be done by

fax or by other means. Covered entities must have in place reasonable and appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information that is disclosed using a fax machine. Examples of measures that could be reasonable and appropriate in such a situation include the sender confirming that the fax number to be used is in fact the correct one for the other physician's office, and placing the fax machine in a secure location to prevent unauthorized access to the information.

Workers Compensation

Licensed acupuncturists are not required to obtain authorizations to share patient PHI for purposes of treatment and authorization within state workers compensation systems. The HHS notes:

I am a health care provider and my state law says I have to provide a workers' compensation insurer, upon request, with an injured workers' records that related to treatment or hospitalization for which compensation is being sought. Am I permitted to disclose the information required by my state law?

Answer:

Yes. The HIPAA Privacy Rule permits a covered entity to disclose protected health information as necessary to comply with State law. No minimum necessary determination is required.

Disability, Abuse, Neglect Exemption

Advocating for patients with disabilities and investigating incidences of abuse, domestic violence, or neglect are not under the purview of HIPAA when complying with the law on reporting. In the following HHS notes below, acupuncturists are a "covered entity":

May a covered entity disclose protected health information to a Protection and Advocacy system where the disclosure is required by law?

Answer:

Yes. The Privacy Rule permits a covered entity to disclose protected health information (PHI) without the authorization of the individual to a state-designated Protection and Advocacy (P&A) system to the extent that such disclosure is required by law and the disclosure complies with the requirements of that law. 45 CFR 164.512(a). The Developmental Disabilities Assistance and Bill of Rights Act (DD Act) provides for each state to designate a public or private entity as the Protection and Advocacy system to protect and advocate for the rights of individuals with developmental disabilities, including investigating incidents of abuse or neglect. The P&A designated pursuant to the DD Act is also the Protection and Advocacy system for purposes of the Protection and Advocacy for

Individuals with Mental Illness Act (PAIMI Act) and is empowered to protect and advocate for the rights of individuals with mental illness. These statutes and their implementing regulations require that access to records be provided to P&As under certain circumstances. See the DD Act at 42 USCA 15043(a)(2)(I) and (J) and the PAIMI Act at 42 USCA 10805(a)(4), and their implementing regulations at 45 CFR 1386.22 and 42 CFR 51.41, respectively. Thus, a covered entity may disclose PHI as required by the DD and PAIMI Acts to P&As requesting access to such records in carrying out their protection and advocacy functions under these Acts. Similarly, covered entities may disclose PHI to P&As where another federal, state or other law mandates such disclosures, consistent with the requirements in such law. Where disclosures are required by law, the Privacy Rule's minimum necessary standard does not apply, since the law requiring the disclosure will establish the limits on what should be disclosed. Moreover, with respect to required by law disclosures, a covered entity cannot use the Privacy Rule as a reason not to comply with its other legal obligations.

Section 164.512(a)(2) provides that in making a "required by law" disclosure about adult abuse, neglect or domestic violence (section 164.512(c)), for judicial or administrative proceedings (section 164.512(e)), or for law enforcement purposes (section 164.512(f)), covered entities must also comply with any additional privacy requirements in these provisions that apply. However, none of the additional procedural protections in sections 164.512(c), (e) and (f) apply to the type of "required by law" disclosures to P&As under the provisions of the DD and PAIMI Acts discussed here.

Confidential Conversations

HIPAA is strict but also accounts for real life situations. HIPAA allows for acupuncturists to speak with patients and doctors concerning the case in many settings. This provides protections for acupuncturists providing treatment in semi-private settings and joint treatment areas. HHS notes:

Can health care providers engage in confidential conversations with other providers or with patients, even if there is a possibility that they could be overheard?

Answer:

Yes. The HIPAA Privacy Rule is not intended to prohibit providers from talking to each other and to their patients. Provisions of this Rule requiring covered entities to implement reasonable safeguards that reflect their particular circumstances and exempting treatment disclosures from certain requirements are intended to ensure that providers' primary consideration is the appropriate treatment of their patients. The Privacy Rule recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality health care. The Privacy Rule also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

For example, the following practices are permissible under the Privacy Rule, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby:

- Health care staff may orally coordinate services at hospital nursing stations.
- Nurses or other health care professionals may discuss a patient's condition over the phone with the patient, a provider, or a family member.
- A health care professional may discuss lab test results with a patient or other provider in a joint treatment area.
- A physician may discuss a patients' condition or treatment regimen in the patient's semi-private room.
- Health care professionals may discuss a patient's condition during training rounds in an academic or training institution.
- A pharmacist may discuss a prescription with a patient over the pharmacy counter, or with a physician or the patient over the phone.

In these circumstances, reasonable precautions could include using lowered voices or talking apart from others when sharing protected health information. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practicable. Covered entities are free to engage in communications as required for quick, effective, and high quality health care.

Answering Machines

The general idea is to keep it simple and short when leaving messages on an answering machine. Confirming an appointment time is permissible, but limit the inclusion of PHI as much as possible. The HHS details the following:

May physician's offices or pharmacists leave messages for patients at their homes, either on an answering machine or with a family member, to remind them of appointments or to inform them that a prescription is ready? May providers continue to mail appointment or prescription refill reminders to patients' homes?

Answer:

Yes. The HIPAA Privacy Rule permits health care providers to communicate with patients regarding their health care. This includes communicating with patients at their homes, whether through the mail or by phone or in some other manner. In addition, the Rule does not prohibit covered entities from leaving messages for patients on their answering machines. However, to reasonably safeguard the individual's privacy, covered entities should take care to limit the amount of information disclosed on the answering machine. For example, a covered entity

might want to consider leaving only its name and number and other information necessary to confirm an appointment, or ask the individual to call back.

A covered entity also may leave a message with a family member or other person who answers the phone when the patient is not home. The Privacy Rule permits covered entities to disclose limited information to family members, friends, or other persons regarding an individual's care, even when the individual is not present. However, covered entities should use professional judgment to assure that such disclosures are in the best interest of the individual and limit the information disclosed.

In situations where a patient has requested that the covered entity communicate with him in a confidential manner, such as by alternative means or at an alternative location, the covered entity must accommodate that request, if reasonable. For example, the Department considers a request to receive mailings from the covered entity in a closed envelope rather than by postcard to be a reasonable request that should be accommodated. Similarly, a request to receive mail from the covered entity at a post office box rather than at home, or to receive calls at the office rather than at home are also considered to be reasonable requests, absent extenuating circumstances.

Collection of Payment

Acupuncturists can disclose PHI for purposes of collecting a bill. Use reasonable restrictions to protect information. HHS notes:

Does the HIPAA Privacy Rule permit a covered entity or its collection agency to communicate with parties other than the patient (e.g., spouses or guardians) regarding payment of a bill?

Answer:

Yes. The Privacy Rule permits a covered entity, or a business associate acting on behalf of a covered entity (e.g., a collection agency), to disclose protected health information as necessary to obtain payment for health care, and does not limit to whom such a disclosure may be made.

Therefore, a covered entity, or its business associate, may contact persons other than the individual as necessary to obtain payment for health care services. See 45 CFR 164.506(c) and the definition of "payment" at 45 CFR 164.501. However, the Privacy Rule requires a covered entity, or its business associate, to reasonably limit the amount of information disclosed for such purposes to the minimum necessary, as well as to abide by any reasonable requests for confidential communications and any agreed-to restrictions on the use or disclosure of protected health information.

Ethics and the Law

Scope of Practice

The NCCAOM code of ethics states, “Treat within my lawful scope of my practice and training and only if I am able to safely, competently and effectively do so.”

Legal and ethical considerations may conflict. Legally, the scope of practice and state laws may prevent an acupuncturist from using procedures and implements consistent with traditional implementation of acupuncture and herbal medicine. Herbs may not be lawful in some areas; certain types of acupuncture needles or manual acupuncture techniques may be illegal in other areas. The acupuncturist is challenged to work within the legally defined scope of practice.

There is also a gray area. The scope of practice or regional laws may not prohibit a treatment modality or technique but also do not explicitly allow for its use. Magnet therapy, laser acupuncture, bleeding techniques, etc... may not be prohibited or explicitly allowed. As result, acupuncturists are advised to work strictly within their scope of practice and check with their state boards concerning undefined procedures and techniques.

At all times, stay within the boundaries of the law and the scope of practice. That is the legal standard. The ethical standard is to contribute towards changing the law such that appropriate modalities and techniques are included in the scope of practice. The American Medical Association notes:

In general, when physicians believe a law is unjust, they should work to change the law.²

At the Healthcare Medicine Institute, our team of translators and writers provides a free news service that covers up-to-date acupuncture and herbal medicine research. This helps to create public awareness and has contributed to changes in legislation. To access this service, visit the news section of healthcmi.com to see our latest publications. Contributions to research and political outreach are two methods to ensure access to appropriate traditional medicine including acupuncture and herbs.

Examples of State Scope of Practice Rules

The following is a comparison of Florida and California to help get a general understanding of scope of practice on a national scale.

The following is the rule for the State of Florida:

457.102 Definitions.—As used in this chapter:

² <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion102.page>. 1-1-16.

- (1) "Acupuncture" means a form of primary health care, based on traditional Chinese medical concepts and modern oriental medical techniques, that employs acupuncture diagnosis and treatment, as well as adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease. Acupuncture shall include, but not be limited to, the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body and the use of electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by board rule.
- (2) "Acupuncturist" means any person licensed as provided in this chapter to practice acupuncture as a primary health care provider.
- (3) "Board" means the Board of Acupuncture.
- (4) "License" means the document of authorization issued by the department for a person to engage in the practice of acupuncture.
- (5) "Department" means the Department of Health.
- (6) "Oriental medicine" means the use of acupuncture, electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies.
- (7) "Prescriptive rights" means the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

The following are from the State of California laws and regulations:

4927. As used in this chapter, unless the context otherwise requires:

- (a) "Board" means the Acupuncture "Board".
- (b) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.
- (c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.
- (d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

4937. An acupuncturist's license authorizes the holder thereof:

- (a) To engage in the practice of acupuncture.
- (b) To perform or prescribe the use of Asian massage, acupressure, breathing techniques, exercise, heat, cold, magnets, nutrition, diet, herbs, plant, animal, and mineral products, and dietary supplements to promote, maintain, and restore health. Nothing in this

section prohibits any person who does not possess an acupuncturist's license or another license as a healing arts practitioner from performing, or prescribing the use of any modality listed in this subdivision.

(c) For purposes of this section, a "magnet" means a mineral or metal that produces a magnetic field without the application of an electric current.

(d) For purposes of this section, "plant, animal, and mineral products" means naturally occurring substances of plant, animal, or mineral origin, except that it does not include synthetic compounds, controlled substances or dangerous drugs as defined in Sections 4021 and 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(e) For purposes of this section, "dietary supplement" has the same meaning as defined in subsection (ff) of Section 321 of Title 21 of the United States Code, except that dietary supplement does not include controlled substances or dangerous drugs as defined in Section 4021 or 4022, or a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

4938. The board shall issue a license to practice acupuncture to any person who makes an application and meets the following requirements:

(a) Is at least 18 years of age.

This last part is an interesting contrast. In California, an acupuncturist must be at least 18 years of age but in Florida the minimum age is 21. The following is the State of Florida rule:

57.105 Licensure qualifications and fees.—

(1) It is unlawful for any person to practice acupuncture in this state unless such person has been licensed by the board, is in a board-approved course of study, or is otherwise exempted by this chapter.

(2) A person may become licensed to practice acupuncture if the person applies to the department and:

(a) Is 21 years of age or older, has good moral character, and has the ability to communicate in English, which is demonstrated by having passed the national written examination in English or, if such examination was passed in a foreign language, by also having passed a nationally recognized English proficiency examination;

This last section (57.105, 2, a) represents another emerging trend. English is slowly becoming a required language in the USA on a national scale. There has been a phasing out of Korean, Japanese and Chinese language acupuncture examinations for

licensure nationally. This is controversial in that expert practitioners from China and other Asian countries may not be able to obtain acupuncture licenses in the USA without significant study of the English language. The proponents of this requirement suggest that this will reduce medical errors. In Florida, the English language requirement is written into law.

Biomedical Waste

Biomedical sharps waste is often regulated by country, state, and county rules. HIPAA does not govern biomedical waste disposal. Here, legal and ethical considerations involve safe and ecological waste disposal. The following are state regulation examples.

In California, the following rule applies for small quantity generators of medical waste:

For the two types of medical waste, biohazardous and sharps waste, the storage times do differ. A facility that generates less than 20 pounds of biohazardous waste per month may store it for 30 days. The waste may be stored for up to 90 days if kept at 32° F or below. Sharps waste can be stored for 30 days, once the container is full. To determine how frequently your facility requires pickup by a medical waste transporter, you should weigh the amount of biohazardous waste generated in one month. Do not include the amount of sharps waste generated in the weight.

California allows for medical sharps waste to be picked up by approved disposal companies. Keep a receipt and/or copy of the manifest to prove proper disposal of the waste. As with all areas, the waste must be stored in an approved container. California, along with many other states, allows mail-back systems for sharps containers, specially designed medical needle disposal containers. Mail-back sharps containers are prepaid sharps disposal containers that can be mailed back to the disposal company.

Florida statutes stipulate the following:

381.0098 Biomedical waste.—

(1) LEGISLATIVE INTENT.—Except as otherwise provided herein, the Department of Health shall regulate the packaging, transport, storage, and treatment of biomedical waste. The Department of Environmental Protection shall regulate onsite and offsite incineration and disposal of biomedical waste. Consistent with the foregoing, the Department of Health shall have the exclusive authority to establish treatment efficacy standards for biomedical waste and the Department of Environmental Protection shall have the exclusive authority to establish statewide standards relating to environmental impacts, if any, of treatment and disposal including, but not limited to, water discharges and air emissions. An interagency agreement between the Department of Environmental Protection and the Department of Health shall be developed to ensure maximum efficiency in coordinating, administering, and regulating biomedical wastes.

(2) DEFINITIONS.—As used in this section, the term:

- (a) "Biomedical waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contains human-disease-causing agents; discarded disposable sharps; human blood, blood products, and body fluids; and other materials which in the opinion of the department represent a significant risk of infection to persons outside the generating facility. The term does not include human remains that are disposed of by persons licensed under chapter 497.
- (b) "Biomedical waste generator" means a facility or person that produces or generates biomedical waste. The term includes, but is not limited to, hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes where embalming procedures are performed.
- (c) "Department" means the Department of Health.
- (d) "Sharps" mean those biomedical wastes which as a result of their physical characteristics are capable of puncturing, lacerating, or otherwise breaking the skin when handled.
- (e) "Treatment" means any process, including steam treatment, chemical treatment, and microwave shredding, which changes the character or composition of biomedical waste so as to render it noninfectious. For the purposes of this section, treatment does not include the incineration of biomedical waste.

Many states stipulate differences between large and small generators of medical waste. Most acupuncturists tend to fall in the small generator category. Restrictions, permits and fees for large generators are more tightly regulated. This may be of concern in group practices wherein all acupuncturists are incorporated as a single entity. In this case, the practice may be classified as a large generator of medical sharps waste. The following Florida statute (381.0098) defines the differences between large and small generators for licensed acupuncturists in Florida:

(4) PERMITS AND FEES.—

- (a) All persons who generate, store, or treat biomedical waste shall obtain a permit from the department prior to commencing operation, except that a biomedical waste generator generating less than 25 pounds of biomedical waste in each 30-day period shall be exempt from the registration and fee requirements of this subsection. A biomedical waste generator need not obtain a separate permit if such generator works less than 6 hours in a 7-day period at a location different than the location specified on the permit. The department may issue combined permits for generation, storage, and treatment as appropriate to streamline permitting procedures. Application for such permit shall be made on an application form provided by the department and within the timeframes and in the manner prescribed by department rule.
- (b) Once the department determines that the person generating, storing, or treating biomedical waste is capable of constructing a facility or operating in compliance with this section and the rules adopted under this section, the department shall grant the permit.

Taking a look at requirements for sharps containers in Oregon, the same stipulations are nearly identical to other states:

Sharps and other medical waste

Medical sharps such as needles, IV tubing with needles, scalpel blades, lancets, glass tubes and syringes can harm people, pets and wildlife when discarded improperly. Placing hypodermic needles and other sharps in the trash, for example, exposes garbage haulers and other disposal workers to potential injury. To reduce these risks, it's illegal in Oregon to dispose of medical sharps in the garbage. Instead, they must be put in approved sharps containers and disposed of safely. Source: oregonmetro.gov

Virginia has the same requirement by statute:

9VAC20-120-240. Sharps.

Sharps must be placed directly into puncture resistant containers as required by the general industry standards in 16VAC25-90-1910.1030(d)(4)(iii)(A).

The similarities persist in almost every jurisdiction. The following pertains to Colorado statutes:

Contaminated sharps (needles, syringes, lancets) must be placed in a puncture resistant container and be properly designated as untreated infectious waste or made noninfectious by an appropriate treatment method. Untreated containers of sharps cannot be compacted. [CSWR Section 13.8.4] Recognizable human anatomical remains cannot be disposed of at a solid waste landfill. These must be either incinerated or interred. [CSWR Section 13.4.4]

Concerns about a particular state's medical sharps waste restrictions can be referenced from the EPA's (epa.gov) website or on a state-by-state basis. The EPA lists each state and the statutes governing sharps waste. Canada, Australia and the UK have similar provisions and similarities.

Clean Needle Guidelines

HIPAA does not govern clean needle technique, however, federal, state, and local regulations apply. Ultimately, an acupuncturist is ethically bound to maintain clean needles and clean work spaces for the protection of the patients, staff, and oneself. Legal and institutional parameters act as a general guidelines to achieve this result.

According to many clean field guidelines, 70% ethyl or isopropyl alcohol is the correct agent to be used to cleanse the skin with a cotton ball prior to acupuncture needling. The CCAOM (Council of Colleges of Acupuncture and Oriental Medicine) advises the following in its clean needle technique guidelines:

Once the hands of the practitioner are rewashed, the acupuncture points should be swabbed with an alcohol swab using 70% isopropyl alcohol. Use a new swab whenever the alcohol swab becomes dirty or contaminated or is too dry to leave a thin layer of alcohol solution on the skin. The insertion point can then be palpated with the washed finger.

A very high percentage of alcohol content is not preferred. This has a different drying rate that affects sanitization and is therefore not recommended for clean field acupuncture preparation. According to the text Chinese Acupuncture and Moxibustion (Foreign Language Press, Beijing), the skin is cleansed with 75% alcohol or with 2.5% iodine that is then removed with 70% alcohol on a cotton ball. Specific guidelines for cleansing the skin vary by certifying bodies and organizations. Several US based clean needle technique course instructions include the use of 70% alcohol. Be sure to comply with the standards consistent with licensure in your state.

Rubbing alcohol is the general term used to denote a type of denatured alcohol used for disinfection. In the USA, this is typically 70 to 95% either isopropyl or ethyl alcohol. Heavy taxes and sales restrictions apply to alcohol that is fit for human consumption. Rubbing alcohol is made unfit for ingestion, denatured, by adding acetone, methyl isobutyl ketone and other additives to make the mixture poisonous for ingestion and to create a bitter flavor. Water is also added. As a result of the additives, rubbing alcohol can be sold without the heavy taxes that apply to alcoholic beverages. In addition, ingredients including acetone have a very drying effect and repeated use may cause cracking of the skin and dryness.

Denatonium is often added to make rubbing alcohol very bitter to prevent accidental and intentional ingestion. This chemical compound, often in the form of denatonium benzoate, is also added to nail biting prevention formulas, animal repellants, windshield washing fluids, shampoos and antifreeze solutions. As a public policy matter, denatonium has been credited with preventing poisoning of children and animals and is required to be included in some poisonous household items by several state laws.

Methyl isobutyl ketone (hexone, methyl-isobutyl-cetone, MIBK) is a powerful solvent used as a denaturant in rubbing alcohol. The EPA (United States Environmental Protection Agency) notes that it has a low acute toxicity by inhalation and dermal exposure and moderate acute toxicity by ingestion. According to the EPA, chronic exposure to methyl isobutyl ketone "has been observed to cause nausea, headache, burning in the eyes, weakness, insomnia, intestinal pain, and slight enlargement of the liver in humans."

Clean Field

The following is an example taken from the State of California regulations and is representative of language applicable to many states regarding maintaining a clean field to work within.

1399.451. Treatment Procedures.

In treating a patient, an acupuncturist shall adhere to the following procedures:

1. (a) The acupuncturist's hands shall be brush-scrubbed with soap and warm water immediately before examining patients or handling acupuncture needles and other instruments, and between patients.
2. (b) All instruments shall be sterilized before and between uses in a manner which will destroy all microorganisms. All needle trays which contain sterile needles shall also be sterile. Each time instruments are sterilized, the acupuncturist shall use a tape or strip indicator which shows that sterilization is complete.
3. (c) Acupuncture points, where needles are to be inserted, shall be cleaned with an appropriate antiseptic before insertion of the needle.
4. (d) In the event an acupuncture needle inserted in a patient breaks subcutaneously, the treating acupuncturist shall immediately consult a physician. An acupuncturist shall not sever or penetrate the tissues in order to excise such a needle.
5. (e) Any complication, including but not limited to, hematoma, peritonitis or pneumothorax arising out of acupuncture treatment shall be referred immediately to a physician or dentist or podiatrist, if appropriate, if immediate medical treatment is required.
6. (f) Acupuncture shall not be performed using hypodermic needles.
7. (g) All instruments to be discarded shall be disposed of safely.
8. (h) Needles shall be disposed of by placing them in a sealed, unbreakable container marked "Hazardous Waste" and disposed of in accordance with state and local law.

1399.452. Treatments Outside the Office.

1. (a) Any acupuncturist who provides acupuncture treatment outside the office shall carry the required sterile needles and other instruments in a sterile airtight container.
2. (b) All standards of practice applicable to treatment outside the office shall be adhered to by the acupuncturist providing such treatment.

The following is another example of office hygiene and clean field regulations. The following is from the State of Florida Administrative Register & Florida Administrative Code, 64B1-8.

64B1-8.003 Office Hygiene.

An acupuncture office shall be maintained in a safe and sanitary manner.

64B1-8.004 Disposal of Biohazardous Waste.

Biohazardous waste must be managed pursuant to the provisions of Chapter 64E-16, Florida Administrative Code, effective June 3, 1997.

64B1-8.005 Infection Control Training.

Prior to commencement of clinical training, every approved course of study and tutorial program shall provide training in clean needle technique and universal precautions for preventing the transmission of bloodborn(e) pathogens and other

infectious diseases, including, for example, HIV/AIDS, hepatitis, staphylococcus, and tuberculosis.

Most clean needle technique courses and regulations require that an acupuncturist's hands have been cleaned with soap and water and/or swabbed with a disinfectant, the skin of the needle site has been disinfected and that the sterility of the needle is maintained at the needle shaft upon insertion. In addition, the needle must be removed without the acupuncturist touching the shaft of the needle. The needle is disposed in a biohazard waste container and the practitioner cleans the hands again.

In some states and counties, storage of needles in biohazard containers is set to a maximum time limit before they must be picked up by or sent to a proper waste disposal company. In some counties and states, the area where used biohazard containers are stored must be labeled.

California and Florida Single Use Needles

State regulations govern acupuncture needle use. The State of California specifically prohibits the reuse of acupuncture needles:

1399.454. Single Use Needles.

An acupuncturist shall use needles labeled for single use only that meet the requirements of federal regulations 21 CFR Part 880.5580 (61 FR 64617, December 6, 1996). It shall constitute unprofessional conduct for an acupuncturist to use a needle more than once.

This is a general trend in laws and regulations for filiform needles. The State of Florida has a similar provision:

457.1085 Infection control.—Prior to November 1, 1986, the board shall adopt rules relating to the prevention of infection, the safe disposal of any potentially infectious materials, and other requirements to protect the health, safety, and welfare of the public. Beginning October 1, 1997, all acupuncture needles that are to be used on a patient must be sterile and disposable, and each needle may be used only once.

Although an acupuncturist may own an autoclave sufficient for proper needle sterilization, it is not legal to reuse needles in many regions. Here, the legal guidelines supersede other considerations.

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After Login, a menu appears entitled "Courses, Tests, Certificates"

Click on "Acupuncture Courses"

Follow the links. Courses can be downloaded to multiple locations, quizzes can be taken (and re-taken if needed) and certificates of completion can be saved and printed.

Note: First, select the Quiz button. Next, it changes to the Take Test button. This changes to a get Certificate button once you have passed the test.