

Point-Counterpoint: Should Homeopathy Be Included in Acupuncture's Scope of Practice?

Randall Neustaedter; Howard Kong

Just over a year ago, California state senator Don Perata introduced Senate Bill 466, which is designed to amend two sections of the state's business and professions code that relate to the practice of acupuncture. If passed, the bill would add low-level laser stimulation as a technique within the definition of acupuncture and authorize acupuncturists to use magnets and homeopathic remedies as a treatment modality.

Senate Bill 466 would have a significant impact on the acupuncture profession, not just in the state of California, but possibly across the U.S. Passage of the bill would give acupuncturists an expanded scope of practice and allow them to perform what are traditionally considered "Western" types of medicine. This incorporation of Eastern and Western forms of care could have a profound effect on how the practice of acupuncture is defined, and an equally important effect on the public's perception of what acupuncturists do.

Should acupuncturists be allowed to incorporate homeopathy into their practice to perform these new treatments, and how would it affect the profession? That is the subject of this month's point-counterpoint.

Yes!

By Randall Neustaedter, OMD, LAc

In the distant past, the state acupuncture board stated that homeopathy was part of our scope of practice. An attorney, Jerry Green, asked a blue ribbon acupuncture council panel on scope of practice if they considered homeopathy part of the authorized scope and received an unequivocally positive response. As late as 1989, an attorney in *Consumer Affairs* provided his written opinion to the acupuncture council, stating, "A homeopathic preparation may only be prescribed or furnished to a patient by an acupuncturist if it can be considered also to be an 'herb' as that term is used in Section 4937" (Greg Gorges, staff counsel, October 6, 1989).

The situation then changed. In 1993, a second *Consumer Affairs* opinion concluded that the use of homeopathic preparations was not included in scope of practice because they are drugs and because homeopathy treats diseases. In response, the California Society of Oriental Medicine and Acupuncture board (CSOMA; at that time called CAAOM) approved a position paper setting forth the arguments for inclusion of homeopathic preparations within our scope of practice. This document defined and characterized the use of homeopathics, arguing for the use of homeopathics within the framework of existing law and the licensing act. This paper was subsequently adopted by CSOMA.

CSOMA Position Paper on Homeotherapeutics

Homeotherapeutics is a scientifically oriented method of restoration and/or maintenance of health

which utilizes substances known as homeopathic preparations, selected and administered in accordance with the "principle of similars."

Homeopathic preparations may be prescribed according to a number of different therapeutic strategies. Classical homeopathy denotes the use of substances in accordance with the law of similars, a principle found in Oriental medicine as well. Another prescribing method involves the use of homeopathic preparations in the place of crude herbs using indications derived from traditional Oriental medicine. A third method involves the use of homeopathic preparations based on similarities between the symptoms derived from homeopathic research and the symptoms of traditional Oriental syndromes or energetic imbalance patterns in the body in which case the preparations are used to balance meridians or points. The ability to use these preparations within scope of practice should not be limited by the prescribing methodology.

Homeopathic preparations of plants, mineral substances, or animal products are a specially prepared form of herbs which are termed "drugless substances and herbs" in the Acupuncture Licensure Act. The process involved in producing a homeopathic preparation is simply one of dilution and shaking of a liquid solution in a glass vial. These dilutions are dispensed either as liquid solutions, pressed tablet triturates or sugar pellets saturated with the liquid solution. The preparation of homeopathic products by manufacturing pharmacies is recognized and regulated by the FDA. They are available to the public as over the counter, non-prescription preparations.

The legality of licensed acupuncturists prescribing homeopathic preparations has not been determined, however their use may be justified because of the inclusion of "herbs" within the laws governing the practice of acupuncture. The licensing act does not describe or limit herbal preparation methods. According to legislative counsel Francisco Martin in an opinion letter concerning scope of practice dated September 2, 1994, "In determining which techniques fall within this scope of practice, courts would generally consider, among other things, the customs, standards and practices of the profession (see *Shea v Board of Medical Examiners*, Cal. App. 3d, 564, 575)." Given the ubiquitous use of homeopathic preparations by acupuncturists, the customs and practices of the profession would seem to warrant inclusion within scope of practice.

Senate Bill 466

Because of the continuing controversy and confusion regarding homeopathic preparations and other modalities not specifically enumerated in the licensing act, a bill was introduced to change the language of the law to clarify scope of practice and end the debate about their use. Many acupuncturists use homeopathy as a significant portion of their practices. They have sought extensive training and, in many cases, received national certification in homeopathy.

The new law provides a more detailed list of modalities and separates the terms "nutrition," "drugless substances," "herbs" and "dietary supplements" from each other to more readily represent the actual practice of Oriental medicine. In addition, the bill will specifically add the terms "low level laser stimulation" of acupuncture points, "magnets" and "homeopathics" to our scope of practice. The new language authorizes an acupuncturist "To perform or prescribe the use of Oriental massage, acupressure, breathing techniques, exercise, magnets, nutrition, drugless substances, herbs, dietary supplements, and homeopathics, to promote health."

Homeopathics are specifically enumerated in the acupuncture licensing laws of several states. They are also considered within the scope of practice by AAOM and are included in their model legislative language for new states that are considering licensure for Oriental medicine. Homeopathic preparations are considered safe, over-the-counter substances by the FDA available to any consumer without prescription. Supporting this clarification of our scope of practice will

free acupuncturists from the confusion of conflicting legal opinions regarding the law. It will enable acupuncturists to freely prescribe simple homeopathic remedies for acute illness or seek further training to utilize them in the broad scope of chronic conditions.

No!

By Howard Kong, LAc

With the recent introduction of California Senate Bill 466, a controversy has been stirring: should homeopathy be incorporated within the scope of practice of acupuncture? It is not whether one is "pro" or "anti" homeopathy that needs to be considered, nor is it simply a matter of expanding the rights and privileges of our profession. If our profession is to add homeopathy to its scope, several issues must be considered.

Are the Philosophies and Traditions of Acupuncture and Homeopathy Compatible?

Traditional Oriental medicine was developed over many centuries in Asia, independent of Western medicine and thus dissimilar to the theories and philosophies of the West. The acupuncture profession was formed to embody and represent this Asian healing art. Acupuncture, as defined by California law, encompasses not just the modality which involves the use of needles, but other traditional modalities such as moxibustion, herbs, massage and breathing techniques (such as *qi gong* and *tai chi*), to name a few. This scope was kept broad so that no modalities of traditional Oriental medicine would be excluded from the definition. In spite of different varieties and applications of each modality, they all share similar ideas and philosophies.

Homeopathy, on the other hand, contains its own ideas and philosophies, which are vastly different from those of traditional Oriental medicine. The principle of the "law of similars" bears little resemblance to any principles of traditional Oriental medicine, nor would I anticipate that Dr. Hahnemann, the early 19th century German founder of homeopathy, was familiar with the Asian philosophy of the five elements.

That these two forms of medicine have very different philosophies make them incompatible. Moreover, it would be wrong to misrepresent traditional Oriental medicine and the acupuncture profession by suggesting that homeopathy is part of the traditional Oriental system of healing. Arguably, SB 466 as it is currently written would do just that, as it places the use of "homeopathics" on par with the use of herbs, moxibustion and breathing techniques with respect to acupuncture's scope.

If Acupuncture and Homeopathy are Incompatible, Why is There an Effort to Include Homeopathy within Acupuncture?

In California, the practice of homeopathy by acupuncturists is questionably illegal. Acupuncturists who practice homeopathy have asserted that because our scope allows us to prescribe "drugless substances," we have the right to apply homeopathics, as homeopathics are understood to be drugless. However, section 109985 of the California Health and Safety Code states that substances described in the official Homeopathic Pharmacopoeia of the United States are recognized as drugs. To compound the issue, the stated opinion of the acupuncture board has been that the practice of homeopathy falls outside the scope of acupuncture. A solution to allow acupuncturists who practice homeopathy to continue doing so, would be to graft homeopathy into the scope of practice of acupuncture.

I am tremendously sympathetic to the challenges faced by practitioners and supporters of

homeopathy. Like acupuncturists in the 1970s, homeopaths face strong criticism, skepticism and prejudice from the established medical professions. They also face the possibility of prosecution just as acupuncturists have in the past (in the 1970s, people were jailed for practicing acupuncture).

I do not believe that an acupuncturist (or anyone) should be denied the right to practice any healing art for which they are appropriately trained and competent to do. However, I do not believe that homeopathy belongs in the scope of practice of acupuncture any more than acupuncture belongs in the scope of practice of other medical professions which have unequal or no training. Homeopathy should be a profession in and of itself. It is because of the lack of this defined profession that this debate currently persists.

The short-term solution to allow homeopathic acupuncturists to continue practicing homeopathy is to tack on the use of homeopathics into the scope of acupuncture. I believe this solution will create difficulties in the future, as the identity of acupuncture will be made less consistent. The long-term solution would be to provide a vehicle in which all medical professions can pursue the practice of homeopathy, which is to establish a state recognized standard in which appropriate health care providers are permitted to prescribe and use homeopathics. This would take more time and work, but the right thing to do is rarely the easier.

One of the most significant problems in our profession is the lack of unity. That we have no less than seven different professional associations in California alone is evidence of this. One of my fears is that if we accept homeopathy as part of our scope, it will further erode our chances for unity by creating further division. That some people might use the acupuncture licensure as a means for establishing a homeopathic profession is wrong and will erode the integrity of our profession.

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