

# THIRD DRAFT FEDERAL ACUPUNCTURE BILLS

VERSION: November 1, 2013 | American Association of Acupuncture and Oriental Medicine

#### PRIMARY CONTRIBUTORS

Michael J. Jabbour, MS, LAc, Valerie Hobbs, MSOM, LAc, Beth Clay, David Miller, MD, LAc, William Morris, PhD, DAOM, LAc, John Barrett, CPA, LAc, Michael Taromina, ESQ, Jeannie Kang, LAc, Kimberley Benjamin, LAc, Denise Graham, and members of the AAAOM Board and Public Policy Committee, Society for Acupuncture Research, and National Certification Commission for Acupuncture and Oriental Medicine.

### **FINDINGS**

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| Licensed Healthcare Providers. Acupuncture is a standardized, 1,2 licensed and regulated health  |
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| care profession that conducts Master's and Doctoral level training in U.S. Department of   |
| Education recognized accredited institutions. <sup>3</sup> A Licensed Acupuncturist (or comparable state                               |
| designated title) provides safe, <sup>4</sup> low cost <sup>5,6</sup> and comparatively effective <sup>7,8</sup> health care services. |
| (A) State Licensure, Regulation, and Use of Acupuncturist Services. –  |

- (1) As of December 31, 2012, 44 states and the District of Columbia have developed licensure laws and regulation for acupuncturists. 42 states recognize acupuncturists as independent healthcare providers. 3 states recognize acupuncturists as primary care providers.
- (2) The National Certification Commissioner for Acupuncture and Oriental Medicine (NCCAOM®) has provided 30,000 licensure qualifying examinations for acupuncturists in the United States since 1984.
- (3) **Public Utilization.** Over 3.1 million adults visited an acupuncturist in 2006, <sup>9</sup> a figure that has risen sharply over the past decade; in 2007 there were 79.2 visits to an acupuncturist per 1,000 adults compared to 27.2 visits in 1997. <sup>10</sup> Visits to a health care practitioner of any kind totaled \$61.5 billion, of which \$11.9 billion was spent on complementary and alternative medicine (CAM) providers such as acupuncturists.
- (4) Increasing Insurance Coverage. The number of health insurance plans that cover acupuncture and other complementary and alternative therapies has been steadily increasing. The Kaiser Family Foundation 2004 annual survey of employer-sponsored health plans found that 50% of larger firms (with 200 or more employees) offered coverage for acupuncture.<sup>11</sup>

<sup>&</sup>lt;sup>1</sup> Astin J.A., Marie A., Pelletier K.R., Hansen E., & Haskell W.L.. (1998). A review of the incorporation of complementary and alternative medicine by mainstream physicians. *Arch Intern Med*, 158(21), 2303-2310.

<sup>&</sup>lt;sup>2</sup> Wahner-Roedler D.L., Vincent A., Elkin P.L., Loehrer L.L., Cha S.S., & Bauer B.A.. (2006). Physicians' attitudes toward complementary and alternative medicine and their knowledge of specific therapies: a survey at an academic medical center. *Evid Based Complement Alternat Med*,3(4), 495-501.

<sup>&</sup>lt;sup>3</sup> The Accreditation Commission for Acupuncture and Oriental Medicine. (2011). About us. Retrieved January 27, 2012, from http://acaom.org/about/

<sup>&</sup>lt;sup>4</sup> Lao L., Hamilton G,R., Fu J., & Berman, B,M. (2003). Is acupuncture safe? A systematic review of case reports. *Altern Ther Health Med*, 9(1), 72-83

<sup>&</sup>lt;sup>5</sup> Witt C.M., Reinhold T., Jena S., Brinkhaus B., & Willich S.N. (2008). Cost-effectiveness of acupuncture treatment in patients with headache. *Cephalalgia*, 28(4), 334-345.

<sup>&</sup>lt;sup>6</sup> Reinhold T., Witt C.M., Jena S., Brinkhaus B., & Willich S.N. (2008). Quality of life and cost-effectiveness of acupuncture treatment in patients with osteoarthritis pain. *Eur J Health Econ*,9(3), 209-219.

<sup>&</sup>lt;sup>7</sup> Witt C.M., Jena S., Brinkhaus B., Liecker B., Wegscheider K., & Willich S.N.. (2006). Acupuncture in patients with osteoarthritis of the knee or hip: a randomized, controlled trial with an additional nonrandomized arm. *Arthritis Rheum*,54(11), 3485-393.

<sup>&</sup>lt;sup>8</sup>Cherkin D.C., Sherman K.J., Avins A.L., Erro J.H., Ichikawa L., Barlow W.E.,...Deyo R.A. (2009). A randomized trial comparing acupuncture, simulated acupuncture, and usual care for chronic low back pain. *Arch Intern Med*,169(9),858-866.

<sup>&</sup>lt;sup>9</sup> National Center for Complementary and Alternative Medicine. Acupuncture use in the united states. Retrieved January 27, 2012, from http://nccam.nih.gov/health/acupuncture/introduction.htm#ususe

<sup>&</sup>lt;sup>10</sup> Wolsko P.M., Eisenberg D.M., Davis R.B., Ettner S.L., & Phillips R.S. (2002). Insurance coverage, medical conditions, and visits to alternative medicine providers: Results of a national survey. *Arch Intern Med*,162(3), 281-287.

<sup>&</sup>lt;sup>11</sup> Kaiser Family Foundation/Health Research and Educational Trust. (2004, September). Employer health benefits: 2004 annual survey. Exhibit 8.2, p. 106. *The Henry J. Kaiser Family Foundation*. Retrieved January 27, 2012 from http://www.kff.org/insurance/7148/sections/ehbs04-8-2.cfm

- (5) **Essential Health Benefits Coverage.** Nearly 54 million Americans in six states (California<sup>12</sup>, Alaska<sup>13</sup>, Maryland<sup>14</sup>, Nevada<sup>15</sup>, New Mexico<sup>16</sup>, Washington<sup>17</sup>) and four territories (American Samoa<sup>18</sup>, Guam<sup>19</sup>, North Mariana Island<sup>20</sup>, Virgin Islands<sup>21</sup>) now have access to acupuncturists' services that are covered by health insurance.
- (6) **Recognition of the Profession by the Bureau of Labor and Statistics.** Currently, "acupuncturists" are recognized by the Bureau of Labor and Statistics' O-Net Online<sup>22,23</sup> as an emerging profession and has been assigned an occupational code under "Health Diagnosing and Treating Practitioners, All Others", with a Standard Occupational Code (SOC) of 29-1199.01.
- (7) National Accreditation Standard. The Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) is recognized by the US Department of Education as the accreditor for Acupuncture and Oriental Medicine (AOM) educational programs in the U.S. Over sixty institutions throughout the country have achieved the standards of educational excellence by meeting ACAOM's accreditation requirements. All ACAOM accredited institutions and programs are shaped by a rigorous peer review accreditation process.
- (8) National Credentialing Standard. The Institute for Credentialing Excellence (ICE)'s National Commission on Certifying Agencies (NCCA) recognizes the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM®) national certification programs in Acupuncture, Chinese Herbology and Oriental Medicine as having achieved national accreditation by meeting the NCCA's 21 standards. The NCCAOM® is the only national organization whose certification programs are accredited for the purpose of assuring competence for licensure of acupuncturists in the U.S. Since 1984, NCCAOM has documented the educational eligibility of candidates and has continued to develop and administer national examinations. All NCCAOM Diplomates have passed a set of certification examinations which assure that the knowledge, skills, and abilities necessary for safe and effective practice of acupuncture have been demonstrated.

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<sup>12</sup> http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/california-ehb-benchmark-plan.pdf

<sup>&</sup>lt;sup>13</sup> Center for Medicare & Medicaid Services. *The Center for Consumer Information & Insurance Oversight, Data Resources*. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/alaska-ehb-benchmark-plan.pdf  $^4$  Center for Medicare & Medicaid Services. The Center for Consumer Information & Insurance Oversight, Data Resources. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/maryland-ehb-benchmark-plan.pdf <sup>15</sup> Center for Medicare & Medicaid Services. The Center for Consumer Information & Insurance Oversight, Data Resources. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/nevada-ehb-benchmark-plan.pdf <sup>16</sup> Center for Medicare & Medicaid Services. *The Center for Consumer Information & Insurance Oversight, Data Resources*. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/new-mexico-ehb-benchmark-plan.pdf <sup>17</sup> Center for Medicare & Medicaid Services. *The Center for Consumer Information & Insurance Oversight, Data Resources*. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/washington-ehb-benchmark-plan.pdf <sup>18</sup> Center for Medicare & Medicaid Services. The Center for Consumer Information & Insurance Oversight, Data Resources. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/american-samoa-ehb-benchmark-plan.pdf <sup>19</sup> Center for Medicare & Medicaid Services. The Center for Consumer Information & Insurance Oversight, Data Resources. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/guam-ehb-benchmark-plan.pdf <sup>20</sup> Center for Medicare & Medicaid Services. *The Center for Consumer Information & Insurance Oversight, Data Resources*. Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/northern-mariana-islands-ehb-

benchmark-plan.pdf

21 Center for Medicare & Medicaid Services. The Center for Consumer Information & Insurance Oversight, Data Resources.

Retrieved September 2013, from http://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/virgin-islands-ehb-benchmark-plan.pdf

22 United States Department of Labor, Bureau of Labor and Statistics. (2009, March 12). Standard Occupational Classification, Response to Comment on 2010 SOC: Multiple Dockets on "Acupuncturists". Retrieved September 2013, from

http://www.blc.gov/coc/2010.presoneses/responses.prultiple\_dockets\_f.btm.

http://www.bls.gov/soc/2010\_responses/response\_multiple\_docket\_5.htm

23 O\*NET Online. (2011). Summary Report for: 29-1199.01 – Acupuncturists. Retrieved September 2013, from http://www.onetonline.org/link/summary/29-1199.01

- (B) Congressional Support for Acupuncture. The National Institutes of Health (NIH) affirms the validity and promise of acupuncture by the 1997 NIH Consensus Conference, concluding that there is sufficient evidence of acupuncture's value to expand its use into conventional medicine, encouraging further studies of its physiology, and urging broader public access to acupuncture treatment through insurance companies, Federal and state health insurance programs including Medicare and Medicaid, and other third party payers.
  - (1) "The data in support of acupuncture are as strong as those for many accepted Western medical therapies."
  - (2) "One of the advantages of acupuncture is that the incidence of adverse effects is substantially lower than that of many drugs or other accepted medical procedures used for the same conditions."
  - (3) "There is evidence that some patients have limited access to acupuncture services because of inability to pay... for populations served by Medicare or Medicaid, expansion of coverage to include appropriate acupuncture services would also help remove financial barriers to access."
- (C) Inclusion and non-discrimination Mandates. -
  - (1) P.L. 111–148, The Patient Protection and Affordable Care Act provided clear instruction to expand access to state licensed acupuncturists.
    - i. Section 5101 (1). "Health care workforce" to "include all health care providers with direct patient care and support responsibilities, such as physicians, nurses, nurse practitioners...doctors of chiropractic...licensed complementary and alternative medicine providers, integrative health practitioners ...and any other health professional that the Comptroller General of the United States determines appropriate.
    - ii. **Section 5101 (2).** Health Professionals are defined as "dentists, dental hygienists, primary care providers, specialty physicians, nurses...doctors of chiropractic...licensed complementary and alternative medicine providers...and integrative health practitioners; national representatives of health professionals;...representatives of schools of medicine, osteopathy, ...chiropractic... representatives of public and private teaching hospitals, and ambulatory health facilities, including Federal medical facilities; and ...any other health professional the Comptroller General of the United States determines appropriate."
    - iii. Section 2706 provided non-discrimination language: "A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law."
  - (2) Section 1852(b)(2) of the Social Security Act provides that "A Medicare+Choice organization shall not discriminate with respect to participation, reimbursement, or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable state law, solely on the basis of such license or certification.
- (D) Healthcare for Public Servants, the Military. -
  - (1) Congress affirms that military members and their families should receive the same level of access to collaborative and integrative health care through Defense Health as all Americans.

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- (2) Congress affirms that it is important that acupuncture be available to veterans system wide. Veterans and their dependents should receive the same level of access to integrative health care through Veterans administration as all Americans.
- (3) While some insurance providers to federal employees provide access to acupuncture services, there is no assurance across plans or from year to year that access is maintained.
- (4) Various programs within the Defense Department<sup>24</sup> medical community have long utilized acupuncturists' services and have recently started providing introductory training for physicians<sup>25</sup>. Acupuncturist services have been recognized as important and "extremely effective" treatments for non-opioid pain management<sup>26</sup>; post-traumatic stress disorder and resilience care<sup>27</sup>; mild traumatic brain injury and related insomnia and headaches<sup>28</sup>; anxiety, panic, and tension-induced pain<sup>29</sup>; traumatic brain injuries and psychological disorders<sup>30</sup>. Additionally, the military has provided these services to military families for stress management and post-traumatic stress disorder<sup>31</sup>.
- (E) Acupuncture as an Essential Health Benefit (EHB). The American Association of Acupuncture and Oriental Medicine (AAAOM), the national professional organization for licensed acupuncturists in the United States, supports the inclusion of acupuncture as an Essential Health Benefit and its inclusion in Medicare and all federal insurance and health programs. As of January 1, 2014, fifty-seven million people will have acupuncture coverage as a result of acupuncture being designated an EHB in six states and four territories.
  - acupuncture is safely and effectively practiced nationally by state licensed and regulated healthcare professionals who are trained in institutions whose accreditation is recognized by the U.S. Department of Education;
  - (2) acupuncture is a cost-effective, comparatively-effective, low-tech, and minimally-invasive system of care that has been found to be highly effective in commonly occurring medical conditions as enumerated by the World Health Organization (WHO<sup>33</sup>);
  - (3) acupuncture has demonstrated significant effects on both the central and peripheral nervous system, immune system functioning, and modulation of the stress response among others;

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<sup>&</sup>lt;sup>24</sup> Including Joint Force Andrews; the Restoration and Resilience Center at Ft. Bliss; the Concussive Care Center at Camp Leatherneck; and the National Intrepid Center of Excellence, and others.

<sup>&</sup>lt;sup>25</sup> U.S. Department of Defense. (2010, December 10). *Doctors Use Acupuncture as Newest Battlefield Tool.* Retrieved September 2013, from http://www.defense.gov/news/newsarticle.aspx?id=62053

<sup>&</sup>lt;sup>26</sup> U.S. Department of Defense. (2011, October 25). *Military Medicine Works on Managing Pain*. Retrieved September 2013, from http://www.defense.gov/news/newsarticle.aspx?id=65812

<sup>&</sup>lt;sup>27</sup> U.S. Department of Defense. (2008, May 1). *Gates Works to Reduce Mental Health Stigma*. Retrieved September 2013, from <a href="http://www.defense.gov/news/newsarticle.aspx?id=49738">http://www.defense.gov/news/newsarticle.aspx?id=49738</a>

<sup>&</sup>lt;sup>28</sup> U.S. Department of Defense. (2011, January 27). *Marines in Afghanistan Test New Concussion Care*. Retrieved September 2013, from http://www.defense.gov/news/newsarticle.aspx?id=62607

<sup>&</sup>lt;sup>29</sup> U.S. Department of Defense. (2008, May 9). *Center Creates 'Little Miracles' in Treating Combat Stress*. Retrieved September 2013, from http://www.defense.gov/news/newsarticle.aspx?id=49835

<sup>&</sup>lt;sup>30</sup> U.S. Department of Defense. (2011, June 24). *Intrepid Center Marks First Anniversary*. Retrieved September 2013, from <a href="http://www.defense.gov/news/newsarticle.aspx?id=64450">http://www.defense.gov/news/newsarticle.aspx?id=64450</a>

<sup>&</sup>lt;sup>31</sup> U.S. Department of Defense. (2011, February 9). Women Learn to Fight Stress from Home Front. Retrieved September 2013, from <a href="http://www.defense.gov/news/newsarticle.aspx?id=62739">http://www.defense.gov/news/newsarticle.aspx?id=62739</a>

<sup>&</sup>lt;sup>32</sup> American Association of Acupuncture and Oriental Medicine. (2012, January 31). Position Statement in Support of the Designation of Acupuncture Services as an Essential Health Benefit. Retrieved September 2013, from https://www.aaaomonline.org/resource/resmgr/EHB/AAAOM\_EHB\_Position\_Paper-FIN.pdf

World Health Organization, (2003). Acupuncture: Review And Analysis Of Reports On Controlled Clinical Trials. Geneva, Switzerland.

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- (4) acupuncture is an important component of an emerging collaborative model of care;
- (5) thousands of licensed acupuncturists and physicians are practicing acupuncture in clinics, hospitals, universities, and military and veterans' care facilities; acupuncture reimbursement for treatment by licensed acupuncturists and physicians is starting to become available through private third-party payers;
- (6) acupuncture, has an unparalleled safety record with a minimal risk of side effects, and has demonstrated consistent and meaningful improvement outcomes; acupuncture has demonstrated a high level of patient satisfaction, as evident by the steadily increasing use of acupuncture and highlighting the need for increased patient access to acupuncture care; and
- (7) Acupuncture meets the Essential Health Benefit (EHB) criteria and services, at minimum, five of the EHB categories of care.
- (F) **Evidence by Service Category.** Acupuncture has been found to be cost-effective <sup>69,70</sup> and provide meaningful improvement in outcomes over current effective services and treatments. Acupuncture has been found to be highly effective in several medical conditions, including the management of chronic pain<sup>34,35</sup>, increasing conception rates in couples experiencing infertility<sup>36</sup>, in controlling chemotherapy induced nausea and vomiting<sup>37,38</sup>, and in the treatment of migraine headaches<sup>39,40,41</sup> to name a few. Specifically, in relation to the EHB health service categories, acupuncture has been found to be an effective treatment for: ambulatory patient services, maternity/infertility, mental health and substance use disorder services, rehabilitative services, preventative wellness, and chronic disease management as discussed and referenced below.
  - (1) Ambulatory patient services: Throughout the country, the majority of licensed acupuncturists provide care on an outpatient basis for a wide array of disorders. Among the most common conditions for which patients seek acupuncture is pain. A 2010 article in *Nature Neuroscience*, one of the world's leading scientific journals, confirmed acupuncture's role in triggering the release of adenosine a neuromodulator with anti-nociceptive properties. Energy English that when acupuncture was added to the standard treatment protocol for arthroplasty of the knee, over one-third of patients were able to avoid surgery,

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<sup>&</sup>lt;sup>34</sup> Ezzo J, Vickers AJ, Richardson MA, Allen C, Dibble SL, Issell B, et al. (2006). Acupuncture-point stimulation for chemotherapy-induced nausea and vomiting. Cochrane Database Syst Rev. 2006 Apr 19;(2):CD002285.

<sup>&</sup>lt;sup>35</sup> Hopton A, MacPherson H. Acupuncture for chronic pain: is acupuncture more than an effective placebo? A systematic review of pooled data from meta-analyses. Pain Pract. 2010 Mar-Apr;10(2):94-102. Epub 2010 Jan 8.

<sup>&</sup>lt;sup>36</sup> Franconi G, Manni L, Aloe L, Mazzilli F, Giambalvo Dal Ben G, Lenzi A, Fabbri A.J Endocrinol Invest. 2011 Apr;34(4):307-11. Epub 2011 Feb 4. Acupuncture in clinical and experimental reproductive medicine: a review.

<sup>&</sup>lt;sup>37</sup> Ezzo J, Vickers AJ, Richardson MA, Allen C, Dibble SL, Issell B, et al. (2006). Acupuncture-point stimulation for chemotherapy-induced nausea and vomiting. Cochrane Database Syst Rev. 2006 Apr 19;(2):CD002285.

<sup>&</sup>lt;sup>38</sup> Chao LF, Zhang AL, Liu HE, Cheng MH, Lam HB, Lo SK.The efficacy of acupoint stimulation for the management of therapy-related adverse events in patients with breast cancer: a systematic review. Breast Cancer Res Treat. 2009 Nov;118(2):255-67.

<sup>&</sup>lt;sup>39</sup> Linde K, Allais G, Brinkhaus B, Manheimer E, Vickers A, White AR. Acupuncture for migraine prophylaxis Cochrane Database Syst Rev. 2009 Jan 21;(1):CD001218.

<sup>&</sup>lt;sup>40</sup> Li Y, Zheng H, Witt CM, Roll S, Yu SG, Yan J, Sun GJ, Zhao L, Huang WJ, Chang XR, Zhang HX, Wang DJ, Lan L, Zou R, Liang FR. Acupuncture for migraine prophylaxis: a randomized controlled trial. CMAJ. 2012 Jan 9. [Epub ahead of print]

<sup>&</sup>lt;sup>41</sup> National Center for Complementary and Alternative Medicine. (2011, November). Get the facts: Headaches and CAM. Retrieved January 27, 2012, from http://nccam.nih.gov/health/pain/headachefacts.htm

<sup>&</sup>lt;sup>42</sup> Goldman, N., Chen, M., Fujita, T., Xu Q., Peng W., Liu W., Nedergaard, M. (2010, May). Adenosine A1 receptors mediate local anti-nociceptive effects of acupuncture. *Nature Neuroscience*. Retrieved January 27, 2012, from http://www.readcube.com/reader/10.1038/nn.2562

resulting in a savings of \$9,000 per patient.<sup>43</sup> The *Journal of Bone and Joint Surgery* estimates that by 2030, the demand for primary total knee arthroplasties is projected to grow by 673% to 3.48 million procedures due to an increase in the aging U.S. population. If one-third of those patients could avoid surgery through acupuncture care, this could generate a total savings of \$10.44 billion.

- (2) Maternity and newborn care: For pregnant women, acupuncture is widely used in the management of pain (during and after pregnancy), and in the treatment of allergies, nausea, stress and anxiety, and migraines. A study at a maternity teaching hospital in Adelaide, Australia, of women in early pregnancy (N=593) with symptoms of nausea or vomiting concluded that acupuncture is an effective treatment for nausea and dry retching. <sup>44</sup> Findings from a randomized single-blind controlled trial (n=386) published in the *British Medical Journal* in 2005 found that acupuncture and certain stabilizing exercises constitute efficient complements to standard treatment for the management of pelvic girdle pain (PGP) during pregnancy. Acupuncture was found to be superior to stabilizing exercises in relieving PGP. Hospital maternity wards world-wide are among the settings most familiar with the positive health outcomes acupuncturists help provide.
- (3) Mental health and substance use disorder services including behavioral health treatment: The military and the Veteran's Administration use acupuncture to combat the symptoms of PTSD and pain management in facilities across the country (including Camp Pendleton, Ft. Hood, Ft. Bliss, Ft. Carson, Seattle VA, Salt Lake City VA, the Air Force and Walter Reed Army Medical Center). One active military clinic reported weekly cost savings to be \$18.76 per patient by replacing pharmacotherapy with acupuncture care representing an annual cost savings of \$129,000 in 2009. Acupuncture has been found to be effective in the treatment of post-stroke depression (PSD). A 2011 randomized, double-blind controlled trial concluded that acupuncture for PSD is as effective as fluoxetine but without obvious drug-induced adverse reaction involved. The Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. HHS identifies acupuncture as a complementary treatment for detoxification, recognizing that it can be included as part of a comprehensive management program for treatment for addictions.
- (4) Rehabilitative and habilitative services and devices: According to NIH, an estimated three of every 10,000 workers lost time from work in 1998 because of carpal tunnel syndrome (CTS). One case of CTS treatment without surgical intervention costs \$5,246 versus an estimated \$1,000 in acupuncture treatments (based on 15 visits at

<sup>&</sup>lt;sup>43</sup> Christensen B.V., Iuhl I.U., Vilbek H., Bulow H.H., Dreijer N.C., & Rasmussen H.F. (1992). Acupuncture treatment of severe knee osteoarthrosis. A long-term study. *Acta Anaesthesiol Scand*, 36(6), 519-525.

<sup>&</sup>lt;sup>44</sup> Smith C., Crowther C., & Beilby J. (2002). Acupuncture to treat nausea and vomiting in early pregnancy: a randomized controlled trial. *Birth*, 29(1), 1-9.

<sup>&</sup>lt;sup>45</sup> Elden L., Ladfors L., Olsen M.F., Ostgaard H.C., & Hagberg H. (2005). Effects of acupuncture and stabilising exercises as adjunct to standard treatment in pregnant women with pelvic girdle pain: Randomised single blind controlled trial. *BMJ*, 330(7494), 761.

<sup>&</sup>lt;sup>46</sup> Spira A. (2008). Acupuncture: A useful tool for health care in and operational medicine environment. *Mil Med,* 173(7),629-634.

<sup>&</sup>lt;sup>47</sup> Li H.J., Zhong B.L., Fan Y.P., Hu H.T. (2011, January). [Acupuncture for post-stroke depression: a randomized controlled trial]. *Zhongguo Zhen Jiu* 31(1). Retrieved January 27, 2012, from http://www.ncbi.nlm.nih.gov/pubmed/21355143

<sup>&</sup>lt;sup>48</sup> Substance Abuse and Mental Health Services Administration, Detoxification and substance abuse treatment, treatment improvement protocol (TIP) series45. *California Society of Addiction Medicine*. Retrieved January 27, 2012, from http://www.csam-asam.org/sites/default/files/pdf/misc/TIP\_45.pdf

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\$65 per visit)<sup>49</sup>. Conservatively assuming 54,000 impacted workers per year, this equals an annual savings of \$216 million for CTS treatment alone. Dutch researchers at the Erasmus University Medical Center Rotterdam observed that musculoskeletal complaints are associated with a large medical and societal burden. They concluded that the observed improvements in health-related quality of life (HRQoL) suggest a subjective, clinically relevant, benefit of routine acupuncture therapy in treating musculoskeletal complaints.<sup>50</sup>

(5) Preventive and wellness services and chronic disease management: As part of ACA, the HHS and the IOM have recognized pain as a public health problem. The IOM reports that chronic pain affects at least 116 million American adults - more than the total affected by heart disease, cancer, and diabetes combined – and costs the nation up to \$635 billion each year in medical treatment and lost productivity. The IOM's review recommended offering incentives to support the delivery by primary care providers of coordinated, evidence-based, interdisciplinary pain assessment and care for persons with complex pain." <sup>51</sup> The research evidence supports the benefit of acupuncture for pain relief in chronic neck pain and improved range of motion. 52,53,54 Acupuncture has also been found to be an effective treatment for migraine and tension-type headaches.<sup>55</sup> Research on the use of acupuncture to treat lower back pain, peripheral joint pain and osteoarthritis is limited, however there is growing evidence to suggest its effectiveness. 56, 57, 58, 59, 60, 61 Many hospitals and clinics deploy acupuncturists for preventive and wellness care, and for the management of chronic disease. Specifically, acupuncture is used to reduce post-operative pain, alleviate pain and other side effects of treatment of cancer patients, and improve recovery times for stroke patients. Research indicates that acupuncture can be used for pre-surgical care to reduce the amount of post-operative morphine consumption. This is significant as post-operative pain is a strong predictor of subsequent chronic

<sup>&</sup>lt;sup>49</sup> Clairmont A.C., (1997). Economic aspects of carpal tunnel syndrome. In *Carpal Tunnel Syndrome*. Edited by EW Johnson. Philadelphia, PA, US: WB Saunders.

<sup>&</sup>lt;sup>50</sup> Van den berg I., Tan L., van Brero H., Tan K.T., Janssens A.C., & Hunink M.G. (2010). Health-related quality of life in patients with musculoskeletal complaints in a general acupuncture practice: an observational study. *Acupunct Med*, 28(3), 130-135.

<sup>&</sup>lt;sup>51</sup> Institute of Medicine of the National Academies. (2011, June 29). Relieving pain in america: A blueprint for transforming prevention, care, education, and research. Retrieved January 27, 2012, from http://iom.edu/~/media/Files/Report%20Files/2011/Relieving-Pain-in-America-A-Blueprint-for-Transforming-Prevention-Care-Education-Research/Pain%20Research%202011%20Report%20Brief.pdf

<sup>&</sup>lt;sup>52</sup> Trinh K., Graham N., Gross A., Goldsmith C., Wang E., Cameron I., & Kay T. (2006). Acupuncture for neck disorders. *Cochrane Database Syst Rev.* 19:3:CD004870.

<sup>&</sup>lt;sup>53</sup> Fu L.M., Li J.T., & Wu W.S. (2009). Randomized controlled trials of acupuncture for neck pain: Systematic review and meta-analysis. *J Altern Complement Med*, 15(2), 133-145.

<sup>&</sup>lt;sup>54</sup> Witt C.M., Jena S., Brinkhaus B., Liecker B., Wegscheider K., & Willich S.N. (2006). Acupuncture for patients with chronic neck pain. *Pain*, 125(1-2), 98-106.

<sup>&</sup>lt;sup>55</sup> Linde, K.., Allais G., Brinkhaus B., Manheimer E., Vickers A., & White A.R. (2009). Acupuncture for migraine prophylaxis. *Cochrane Database Syst Rev*, 21;(1):CD001218.

<sup>&</sup>lt;sup>56</sup> Rubinstein S.M., van Middelkoop M., Kuijpers T., Ostelo R., Verhagen A.P., de Boer M.R.,...van Tulder M.W. (2010). A systematic review on the effectiveness of complementary and alternative medicine for chronic non-specific low-back pain. *Eur Spine J*,19(8), 1213-1228.

<sup>&</sup>lt;sup>57</sup> Trigkilidas D. (2010). Acupuncture therapy for chronic lower back pain: A systematic review. *Ann R Coll Surg Engl*,92(7), 595-598.

<sup>&</sup>lt;sup>58</sup> White A., Foster N.E., Cummings M., & Barlas P. (2007). Acupuncture treatment for chronic knee pain: a systematic review. *Rheumatology* (Oxford), 46(3), 384-90.

<sup>&</sup>lt;sup>59</sup> Bjordal J.M., Johnson M.I., Lopes-Martins R.A., Bogen B., Chow R., & Ljunggren A.E. (2007). <u>Short-term efficacy of physical interventions in osteoarthritic knee pain. A systematic review and meta-analysis of randomised placebo-controlled trials. *BMC Musculoskeletal Disorders*, 8:51. <sup>60</sup> Manheimer E., Linde K., Lao L., Buter L.M., & Berman B.M. (2007). Meta-analysis: acupuncture for osteoarthritis of the knee. *Ann Intern Med*, 146(12), 868-877.</u>

<sup>&</sup>lt;sup>61</sup> Kwon, Y.D., Pitter, M.H., & Ernst, E (2006). Acupuncture for peripheral joint osteoarthritis: A systematic review and meta-analysis. *Rheumatology. (Oxford)*, 45, 1331-1337.

pain.<sup>62</sup> Cancer Treatment Centers of America (CTCA) employs acupuncturists in its five nationwide hospitals, providing thousands of acupuncture treatments in a truly integrative setting.<sup>63</sup> Stroke patients who received adjunctive acupuncture treatment decreased their hospital stays by about half and saved \$26,000 per patient.<sup>64</sup> In California alone, with a reported 641,000 stroke patients in 2005, this would represent savings of \$16.6 billion.<sup>65</sup>

#### (G) Evidence-based Acupuncture. -

- (1) Recent U.S. national data indicates a rapid growth of acupuncture over the past decade with a greater than three-fold increase in patient visits (5.4 to 17.6 million). 66
- (2) Acupuncture is a safe modality when practiced by competent, professional acupuncturists
  - i. Prospective patient reports from large-scale clinical trials evaluated ~2 million acupuncture treatments. Only 8.6% of patients reported an adverse event; these adverse events were most commonly (56%) limited to mild bruising or bleeding at the needle site.<sup>67</sup>
  - ii. Only 2 cases of serious adverse events were reported (pneumothorax), with a calculated frequency of occurrence of <1%. <sup>67</sup>
- (3) Acupuncture is effective for common chronic pain conditions.
  - i. A collaboration of researchers conducted an analysis of individual patient data from 29 randomized controlled trials of acupuncture for chronic pain (e.g. osteoarthritis, headache and neck, back, & shoulder pain). The authors concluded that "Acupuncture is effective for the treatment of chronic pain and is therefore a reasonable referral option" and go further to state that "Significant differences between true and sham acupuncture indicate that acupuncture is more than a placebo." This is the largest data-set to date (~18,000 patients) and is strongly suggestive that acupuncture is more than just placebo. 68
- (4) Acupuncture is cost effective<sup>69,70</sup>. Evidence from a recent systematic review of clinical trials suggest that acupuncture is effective and cost-savings for several pain conditions: LBP, headache and OA.<sup>71</sup>

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<sup>&</sup>lt;sup>62</sup> Kotani N., Hashimoto H., Sato Y., Sessler D.I., Yoshioka H., Kitayama M.,... Matsuki A. (2001). Preoperative intradermal acupuncture reduces postoperative pain, nausea and vomiting, analgesic requirement, and sympathoadrenal responses. *Anesthesiology*, 95(2), 349-356.

<sup>&</sup>lt;sup>63</sup> Cancer Treatment Centers of America. Acupuncture, Retrieved January 27, 2012, from http://www.cancercenter.com/complementary-alternative-medicine/acupuncture.cfm

<sup>&</sup>lt;sup>64</sup> Johansson K., Lindgren I., Widner H., Wiklung I., Johansson B.B. (1993). Can sensory stimulation improve the functional outcome in stroke patients? Neurology,43, 2189-2192

<sup>&</sup>lt;sup>65</sup> Centers for Disease Control and Prevention. (2007, May 18). Prevalence of stroke --- United states, 2005. MMWR: 56(19). Retrieved January 27, 2012, from http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5619a2.htm

<sup>&</sup>lt;sup>66</sup> Nahin RL, Barnes PM, Stussman BJ, Bloom B. Costs of complementary and alternative medicine (CAM) and frequency of visits to CAM practitioners: United States, 2007. *Natl Health Stat Report*. Jul 30 2009(18):1-14.

<sup>&</sup>lt;sup>67</sup> Witt CM, Pach D, Brinkhaus B, et al. Safety of acupuncture: results of a prospective observational study with 229,230 patients and introduction of a medical information and consent form. *Forsch Komplementmed*. Apr 2009;16(2):91-97.

<sup>&</sup>lt;sup>68</sup> Vickers AJ, Cronin AM, Maschino AC, et al. Acupuncture for chronic pain: individual patient data meta-analysis. *Arch Intern Med.* Oct 22 2012;172(19):1444-1453.

<sup>&</sup>lt;sup>69</sup> Jabbour, M., Sapko, M.T., Miller, D.W., Weiss, L.M. & Gross, M. (2009). Economic Evaluation in Acupuncture: Past and Future. *American Acupuncturist*. 49. 11.

<sup>&</sup>lt;sup>70</sup> Bonafede, M., Dick A., Noyes K., Klein J.D. & Brown T. (2008). The Effect of Acupuncture Utilization on Healthcare Utilization. *Med Care*, 46, 41-48.

<sup>&</sup>lt;sup>71</sup> Kim SY, Lee H, Chae Y, Park HJ, Lee H. A systematic review of cost-effectiveness analyses alongside randomised controlled trials of acupuncture. *Acupunct Med.* Dec 2012;30(4):273-285.

- (5) Acupuncture is currently utilized at several well-established and reputable institutions and within the Department of Defense (DOD).
  - i. The Dana Farber Cancer Institute at Harvard University has developed evidence-based acupuncture protocols to provide clinically relevant solutions for clinicians and cancer patients with pain. Conditions include: postoperative cancer pain, postoperative nausea and vomiting, postsurgical gastroparesis syndrome, opioid-induced constipation, opioid-induced pruritus, chemotherapy-induced neuropathy, aromatase inhibitor-associated joint pain, and neck dissection-related pain and dysfunction.<sup>72</sup>
  - ii. The National Cancer Institutes comprehensive cancer database (PDQ) statement on acupuncture indicates usage in a wide range of conditions: hot flashes, xerostomia (dry mouth), neuropathy, and cancer related-fatigue & pain management. Error! Bookmark not defined.
  - iii. Several conditions have been treated in both clinical and research-based settings within DOD organizations. 73,74,75,76,77,78
  - iv. Many hospitals and clinics already incorporate the services of licensed acupuncturists as part of their programs. These institutions include but are not limited to: Massachusetts General, Ohio's UH MacDonald Women's Hospital, Stanford Hospitals, Seattle Children's Hospital, Los Angeles' Cedar Sinai, Athen's Regional Medical Center, Luteran's Medical Center, NYU Rusk, Beth Israel Medical Center, Columbia Presbyterian Medical Center, Long Island Jewish Medical Center, Mount Sinai Medical Center, Memorial Sloan-Kettering Cancer Center, Gouverneur Healthcare, University of Wisconsin Hospital and Clinics, Mercy Hospital Chicago, Childrens Memorial Hospital Chicago, Canandaigua VA Medical Center, University Medical Center of AZ, Arizona Center for Integrative Medicine, Midwestern Regional Medical Center, Cancer Treatment Centers of America, University of Colorado Medical Center, University of New Mexico Hospitals, Cleveland Clinic for Integrative Medicine, Beth Israel Medical Center (Continuum Center for Health and Healing), Duke University Medical Center, George Washington University Hospital, Greenwich Hospital Integrative Medicine Program.
  - v. Research Hospitals that offer the services of licensed acupuncturists include but are not limited to: Johns Hopkins, Ronald Regan Hospital - UCLA, Cleveland Clinic, San Francisco Medical Center, University of California, Hospital of the University of Pennsylvania, Barnes Jewish St. Louis, and Henry Ford Hospital Detroit.

DRAFT 090213 – 113<sup>TH</sup> CONGRESS

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<sup>&</sup>lt;sup>72</sup> Lu W, Dean-Clower E, Doherty-Gilman A, Rosenthal D. Acupuncture in Cancer Care at Dana-Farber Cancer Institute In Cohen L, Markman M Eds. *Integrative Oncology: Incorporating Complementary Medicine into Conventional Care*. Current Clinical Oncology Series. 1<sup>st</sup> ed. Totowa, NJ: Human Press; 2008: 181-199

<sup>&</sup>lt;sup>73</sup> Duncan AD, Liechty JM, Miller C, Chinoy G, Ricciardi R. Employee use and perceived benefit of a complementary and alternative medicine wellness clinic at a major military hospital: evaluation of a pilot program. *J Altern Complement Med.* Sep 2011;17(9):809-815.

<sup>&</sup>lt;sup>74</sup> Edwards E, Belard JL, Glowa J, Khalsa P, Weber W, Huntley K. DoD-NCCAM/NIH workshop on acupuncture for treatment of acute pain. *J Altern Complement Med.* Mar 2013;19(3):266-279.

<sup>&</sup>lt;sup>75</sup> McPherson F, McGraw L. Treating generalized anxiety disorder using complementary and alternative medicine. *Altern Ther Health Med.* Sep-Oct 2013;19(5):45-50.

<sup>&</sup>lt;sup>76</sup> Niemtzow RC, Gambel J, Helms J, Pock A, Burns SM, Baxter J. Integrating ear and scalp acupuncture techniques into the care of blast-injured United States military service members with limb loss. *J Altern Complement Med*. Sep 2006;12(7):596-599.

<sup>77</sup> Scott CW. Acupuncture: does it have a place in military general practice? Journal of the Royal Army Medical Corps. Feb 1998;144(1):24-28.

<sup>&</sup>lt;sup>78</sup> Conboy L, St John M, Schnyer R. The effectiveness of acupuncture in the treatment of Gulf War Illness. *Contemp Clin Trials*. May 2012;33(3):557-562.

## FEDERAL EMPLOYEE HEALTH BENEFITS

| 289<br>290<br>291<br>292 | A BILL to amend title 5, United States Code, to provide for coverage of qualified acupuncturist services for federal employees and dependents under the Federal Employees Health Benefits Program. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,       |
|--------------------------|--|
| 293<br>294               | SECTION 1. SHORT TITLE.  |
| 295                      | This Act may be cited as the "Federal FEHB Acupuncture Coverage Act of 2013".  |
| 296<br>297               | SECTION 2. FINDINGS  |
| 298                      | This section is standard for all bills and included above.   |
| 299<br>300<br>301        | SECTION 3. ASSURED COVERAGE OF ACUPUNCTURIST SERVICES UNDER THE FEDERAL EMPLOYEES HEALTH BENEFIT PLANS.  |
| 302<br>303<br>304<br>305 | Acupuncture is an essential health benefit. Acupuncturist services have been proven safe and effective across age groups and conditions. It is important that there be assured access to qualified acupuncturist services for federal employees through the Federal Employees Health Benefit Plans.                      |
| 306<br>307<br>308<br>309 | <ul> <li>(H) In General. —Section 8902(k)(1) of title 5, United States Code, is amended by inserting "acupuncturist," after "nurse midwife," each place it appears.</li> <li>(I) Effective Date. —The amendment made by subsection (a) applies with respect to services provided on or after January 1, 2014.</li> </ul> |
| 310<br>311               | SECTION 4. REPORT TO CONGRESS  |
| 312                      | The Office of Personnel Management Shall Report to Congress within 180 days of the passage of this Act   |

the implementation plan for the Act and provide updates annually by September 1.

### Defense Health

| 315 | A BILL to amend title 10, United States Code, to assure access to qualified acupuncturist services for |
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| 316 | military members and military dependents. Be it enacted by the Senate and House of Representatives of  |
| 317 | the United States of America in Congress assembled,  |
| 318 | SECTION 1. SHORT TITLE.  |
| 319 |  |
| 320 | This Act may be cited as the "Federal Defense Health Acupuncture Act of 2013".                         |
| 321 | SECTION 2. FINDINGS.   |
| 322 |  |
| 323 | This section is standard for all bills and included above.   |
| 324 | SECTION 3. DEFINITIONS   |
| 325 |  |
| 326 | (A) Qualified Acupuncturist Services The term `qualified acupuncturist services' means such            |
| 327 | services furnished by a qualified acupuncturist (as defined in paragraph (B)) and such                 |
| 328 | services and supplies furnished as an incident to services furnished by the qualified                  |
| 329 | acupuncturist which the qualified acupuncturist is legally authorized to perform under State           |
| 330 | law (or the State regulatory mechanism provided by State law).   |
| 331 | (B) Qualified Acupuncturist The term 'qualified acupuncturist' means an individual who has             |
| 332 | been licensed, as an acupuncturist by a State or the District of Columbia (or in the absence of        |
| 333 | state licensing, is certified in Acupuncture or Oriental Medicine by the National Certification        |
| 334 | Commission for Acupuncture and Oriental Medicine).   |
| 335 | SECTION 4. INCLUSION OF ACUPUNCTURE SERVICES THROUGH TRICARE   |
| 336 |  |
| 337 | (A) Members Of The Uniformed Services. — (1) IN GENERAL.—Chapter 55 of title 10, United                |
| 338 | States Code, is amended by inserting after section 1074m the following new section:                    |
| 339 | "§ 1074n. Provision of acupuncturist services: "In accordance with section 1074(c) of                  |
| 340 | this title, and under regulations prescribed by the Secretary, members of the uniformed                |
| 341 | services entitled to medical care under section 1074 and their dependents shall also be                |
| 342 | entitled to qualified acupuncturist services provided in a private facility by an                      |
| 343 | acupuncturist who is licensed in the State in which the facility is located (or in the                 |
| 344 | absence of state licensing, a Certification issued by the National Certification                       |
| 345 | Commission for Acupuncture and Oriental Medicine)."  |
| 346 | (B) Clerical Amendment. —The table of sections at the beginning of such chapter is amended by          |

(C) **TRICARE Program.** —Section 1079(a) of title United States Code, is amended by adding at the end the following new paragraph:

inserting after the item relating to section 1074L the following new item: "1074m. Provision

of Acupuncturist Services.".

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| absence of state licensing, a Certification issued by the National Certification Commission for Acupuncture and Oriental Medicine)."  (D) Effective Date. —The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act.  SECTION 5. ACUPUNCTURE HEALTH SERVICES FOR RETIREES, DEPENDENTS, AND SURVIVORS.  (A) Plan Required Not later than, the Secretary of Defense shall complete development of a plan to provide qualified acupuncturist services and benefits, as a permanent part of the TRICARE program, for covered beneficiaries.  (B) Contents of Plan The plan shall require that a contract entered into under section 1097 of title 10, United States Code, for the delivery of health care services shall—  (1) include the delivery of qualified acupuncturist services; (2) require that qualified acupuncturist services may be provided only by a qualified acupuncturist; and  (3) provide clarity on the process that a covered beneficiary must utilize to select and have direct access to a qualified acupuncturist (meaning with or without referral by another health practitioner.)  (C) Implementation of Plan The plan developed under subsection (a) shall provide for implementation of the plan to begin no later than January 31, 2014.  SECTION 6. APPOINTMENT OF ACUPUNCTURISTS AS COMMISSIONED OFFICERS.  (A) ARMY Section 3068 of title 10, United States Code, is amended—  (1) by inserting "(a) MEDICAL SERVICE CORPS-" before "There is"; (2) in paragraph (5)—  i. by striking our "and" at the end of subparagraph (p); and iii. by inserting after subparagraph (b) the following new subparagraph: iv. the Acupuncture Section; and"; and  (3) by adding at the end the following new subsection: (b) APPOINTMENT OF ACUPUNCTURISTS - Acupuncturists who are qualified under regulations prescribed by the Secretary of the Army may be appointed as commissioned officers in the Acupuncturist who are qualified under regulations prescribed by the Secretary of the Army may be appointe | Acupuncture and Oriental Medicine).".  (D) Effective Date. —The amendments made by this section shall take effect on the 180 days after the date of the enactment of this Act.  SECTION 5. ACUPUNCTURE HEALTH SERVICES FOR RETIREES, DEPENDENTS, AND SURVIVORS.  (A) Plan Required Not later than, the Secretary of Defense shall condevelopment of a plan to provide qualified acupuncturist services and benefits, | mmission for  |
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| (D) Effective Date. —The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act.  SECTION 5. ACUPUNCTURE HEALTH SERVICES FOR RETIREES, DEPENDENTS, AND SURVIVORS.  (A) Plan Required Not later than, the Secretary of Defense shall complete development of a plan to provide qualified acupuncturist services and benefits, as a permanent part of the TRICARE program, for covered beneficiaries.  (B) Contents of Plan The plan shall require that a contract entered into under section 1097 of title 10, United States Code, for the delivery of health care services shall—  (1) include the delivery of qualified acupuncturist services; (2) require that qualified acupuncturist services may be provided only by a qualified acupuncturist; and  (3) provide clarity on the process that a covered beneficiary must utilize to select and have direct access to a qualified acupuncturist (meaning with or without referral by another health practitioner.)  (C) Implementation of Plan The plan developed under subsection (a) shall provide for implementation of the plan to begin no later than January 31, 2014.  SECTION 6. APPOINTMENT OF ACUPUNCTURISTS AS COMMISSIONED OFFICERS.  (A) ARMY Section 3068 of title 10, United States Code, is amended—  (1) by inserting "(a) MEDICAL SERVICE CORPS-" before "There is"; (2) in paragraph (5)—  i. by striking out "and" at the end of subparagraph (D); ii. by redesignating subparagraph (E) as subparagraph (F); and iii. by inserting after subparagraph (D) the following new subparagraph: iv. the Acupuncture Section; and"; and  (3) by adding at the end the following new subsection: '(b) APPOINTMENT OF ACUPUNCTURISTS - Acupuncture Section; and"; and  (3) by adding at the end the following new subsection: '(b) APPOINTMENT OF ACUPUNCTURISTS - Acupuncturists who are qualified under regulations prescribed by the Secretary of the Army may be appointed as commissioned officers in the Acupuncture Section of the Medical Service Corps of the | 355 (D) Effective Date. —The amendments made by this section shall take effect on the 180 days after the date of the enactment of this Act. 357  SECTION 5. ACUPUNCTURE HEALTH SERVICES FOR RETIREES, DEPENDENTS, AND SURVIVORS. 360 361 (A) Plan Required Not later than, the Secretary of Defense shall condevelopment of a plan to provide qualified acupuncturist services and benefits,                         |               |
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| 389 (1) Chapter 513 of such title is amended by inserting after section 5139 the following new section: `Sec. 5140. Appointment of acupuncturists in the Medical Service Corps` Acupuncturist who are qualified under regulations prescribed by the  | •  |               |
| new section: `Sec. 5140. Appointment of acupuncturists in the Medical Service Corps` Acupuncturist who are qualified under regulations prescribed by the   | • •  | £-11- :       |
| Corps` Acupuncturist who are qualified under regulations prescribed by the   | , , ,  | _             |
|  | ·······································  |               |
|  |  |               |
| Secretary of the Navy may be appointed as commissioned officers in the Medical   | 393 Service Corps of the Navy.'.   | = ivieuicai   |

394 (2) The table of sections at the beginning of such chapter is amended by inserting after 395 the item relating to section 5139 the following new item: `5140. Appointment of 396 acupuncturists in the Medical Service Corps.'. 397 (C) Air Force. - (1) Section 8067 of such title is amended— (1) in section (f) by striking "and", inserting "," and inserting after 'chiropractic function' 398 399 and before all that follows, the following – "acupuncturist function" 400 (2) at the end of section (f) and before (g), insert the following: "biomedical service 401 officers may be referred to as the specific career designation, i.e. chiropractic 402 services officer, acupuncturist services officer." 403 (3) by inserting after subsection (i) the following new subsection (j): 404 '(j) Acupuncturist functions in the Air Force shall be performed by commissioned 405 officers of the Air Force who are qualified under regulations prescribed by the 406 Secretary and who are designated as acupuncturist services officers.'. 407 (D) Time period for regulations. - The regulations required to be prescribed by this section shall 408 be prescribed not later than 120 days after the date of the enactment of this Act. SECTION 7. ACUPUNCTURIST HEALTH SERVICES ADVISORY COMMITTEE 409 410 411 (A) Establishment. - Not later than 120 days after the date of the enactment of this Act the 412 Secretary of Defense shall establish an oversight advisory committee to provide the 413 Secretary with advice and recommendations regarding the continued development and 414 implementation of an effective program of acupuncturist health care benefits for members 415 of the uniformed services on active duty. 416 (B) Membership. - The advisory committee shall be composed of members selected from among 417 persons who, by reason of education, training, and experience, are experts in acupuncturist 418 health care, as follows: 419 (1) Members appointed by the Secretary of Defense in such number as the Secretary 420 determines appropriate for carrying out the duties of the advisory committee 421 effectively, including not fewer than five practicing representatives of the 422 acupuncture profession, including at least four state licensed acupuncturists. 423 (2) A representative of each of the uniformed services, as designated by the 424 administering Secretary concerned. 425 (3) A representative from one or more of the national acupuncture associations (such as 426 the American Association of Acupuncture and Oriental Medicine). 427 (4) At least three non-medical military dependent/spouse representatives whose 428 serving member has experienced treatment by a state licensed acupuncturist. 429 (C) Chairman. - The Secretary of Defense shall designate one member of the advisory committee 430 to serve as the Chairman of the advisory committee. 431 (D) Meetings. - The advisory committee shall meet at the call of the Chairman, but not fewer 432 than three times each fiscal year, beginning in fiscal year 2014. 433 (E) **Duties.** - The advisory committee shall have the following duties: (1) Review and evaluate the program of acupuncturist health care benefits provided to 434 435 members of the uniformed services on active duty under chapter 55 of title 10, 436 United States Code. 437 (2) Provide the Secretary of Defense with advice and recommendations as described in 438 subsection ( ).

439 (3) "(3) Upon the Secretary's determination that the program of acupuncturist health 440 care benefits referred to in paragraph ( ) has been fully implemented, prepare 441 and submit to the Secretary a report containing the advisory committee's evaluation 442 of the implementation of such program. 443 (F) Report. - The Secretary of Defense, following receipt of the report by the advisory 444 committee under subsection (e)(3), shall submit to the Committees on Armed Services of the 445 Senate and of the House of Representatives a report containing the following: 446 (1) A copy of the advisory committee report, together with the Secretary's comments on 447 the report. 448 (2) An explanation of the criteria and rationale that the Secretary used to determine 449 that the program of acupuncturist health care benefits was fully implemented. 450 (3) The Secretary's views with regard to the future implementation of the program of 451 acupuncturist health care benefits. 452 (G) Applicability of Temporary Organizations Law. -453 (1) Section 3161 of title 5, United States Code, shall apply to the advisory committee 454 under this section. (2) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight 455 456 advisory committee under this section. (H) **Termination.** - The advisory committee shall terminate 90 days after the date on which the 457 458 Secretary submits the report under subsection (f). (I) Program Development. -459 460 (1) Plan Required. – Not later than March 31, 2014, the Secretary of Defense shall 461 complete development of a plan to provide acupuncturist health care services and 462 benefits, as a permanent part of the Defense Health Program (including the TRICARE 463 program), for all members of the uniformed services who are entitled to care under 464 section 1074(a) of title 10, United States Code. (2) The plan shall provide for the following: 465 466 i. Access, at designated military medical treatment facilities, to the scope of 467 services as determined by the Secretary, based in evidence and current best 468 practices, conditions typical among military personnel on active duty and 469 their dependents, and on the advice of the Advisory Committee. 470 ii. A detailed analysis of the projected costs of fully integrating acupuncturist 471 health care services into the military health care system. 472 iii. An examination of the proposed military medical treatment facilities at 473 which such services would be provided. 474 iv. An examination of the military readiness requirements for acupuncturists 475 who would provide such services. 476 v. An examination of any other relevant factors that the Secretary considers 477 appropriate. 478 vi. Phased-in implementation of the plan over a 3-year period, beginning on 479 October 1, 2014 480 (3) Continuation of Current Services. - Until the plan required under subsection (a) is 481 implemented, the Secretary shall continue to furnish the same level of acupuncturist 482 health care services and benefits under the Defense Health Program that is provided 483 during fiscal year 2013 at military medical treatment facilities and contracted 484 facilities that provide such services and benefits. 485 (J) **Report Required.** - Not later than January 31, 2014, the Secretary of Defense shall submit a

report on the plan required under subsection (a), together with appropriate appendices and

- attachments, to the Committees on Armed Services of the Senate and the House of Representatives.
  - (K) GAO Reports. The Comptroller General shall monitor the development and implementation of the plan required under subsection (\_\_\_\_), including the administration of services and benefits under the plan, and periodically submit to the committees referred to in subsection (d) written reports on such development and implementation."

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### **VETERANS ADMINISTRATION**

| 494<br>495<br>496 | A BILL to amend title 10, United States Code, to Assure Access to Acupuncturist services through the Veterans Administration. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, |
|-------------------|---|
| 497               | SECTION 1. SHORT TITLE.   |
| 498<br>499        | This Act may be cited as the "Federal Veterans Health Acupuncture Act of 2013".   |
| 500<br>501        | SECTION 2. FINDINGS.  |
| 502               | This section is standard for all bills and included above.  |
| 503               | SECTION 3. DEFINITIONS.   |
| 504<br>505        | (A) Qualified Acupuncturist Services The term `qualified acupuncturist services' means such   |
| 506               | services furnished by a qualified acupuncturist (as defined in paragraph (B)) and such  |
| 507               | services and supplies furnished as an incident to services furnished by the qualified   |
| 508               | acupuncturist which the qualified acupuncturist is legally authorized to perform under State  |
| 509               | law (or the State regulatory mechanism provided by State law).  |
| 510               | (B) <b>Qualified Acupuncturist.</b> - The term `qualified acupuncturist' means an individual who has  |
| 511               | been licensed, as an acupuncturist by a State or the District of Columbia (or in the absence or   |
| 512               | state licensing, is certified in Acupuncture or Oriental Medicine by the National Certification   |
| 513               | Commission for Acupuncture and Oriental Medicine).  |
| 514               | SECTION 4. INCLUSION OF ACUPUNCTURIST SERVICES AT VETERANS  |
| 515               | HEALTH FACILITIES.  |
| 516               |   |
| 517               | Title 38 USC Section 1710 is amended to include the following:  |
| 518               | (A) Requirement for Program Subject to the provisions of this section, the Secretary of   |
| 519               | Veterans Affairs shall carry out a program to provide acupuncturist services to veterans  |
| 520               | through Department of Veterans Affairs medical centers and clinics.   |
| 521               | (B) Eligible Veterans Veterans eligible to receive acupuncturist care and services under the  |
| 522               | program are veterans who are enrolled in the system of patient enrollment under section   |
| 523               | 1705 of title 38, United States Code.   |
| 524               | (C) Location of Program The program shall be carried out at sites designated by the Secretary   |
| 525               | for purposes of the program. The Secretary shall designate at least one site for such program   |
| 526               | in each geographic service area of the Veterans Health Administration. The sites so   |

designated shall be medical centers and clinics located in urban areas and in rural areas.

program shall include but not be limited to a variety of acupuncturist care and services to

(D) Care and Services Available. - The acupuncturist care and services available under the

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530 address chronic and acute pain, cancer pain, postoperative nausea and vomiting, 531 postsurgical gastroparesis syndrome, opioid-induced constipation, opioid-induced pruritus, 532 chemotherapy-induced neuropathy, aromatase inhibitor-associated joint pain, and neck 533 dissection-related pain and dysfunction, the medical conditions enumerated by the World 534 Health Organization, stress management, mental health and substance abuse, symptoms of 535 traumatic brain injury and post traumatic stress. 536 (E) Other Administrative Matters. -537 (1) The Secretary shall carry out the program through personal service contracts and by appointment of licensed acupuncturists in Department medical centers and clinics. 538 539 (2) As part of the program, the Secretary in conjunction with the acupuncture 540 professional associations shall provide training and materials relating to acupuncturist care and services to Department health care providers assigned to 541 542 primary care teams for the purpose of familiarizing such providers with the benefits 543 of acupuncturist services. 544 (F) **Regulations.** - The Secretary shall prescribe regulations to carry out this section. (G) Acupuncture Advisory Committee. -545 546 (1) The Secretary shall establish an advisory committee to provide direct assistance and 547 advice to the Secretary in the development and implementation of the acupuncturist 548 services health care program. 549 (2) Members appointed by the Secretary of Veterans Affairs in such number as the 550 Secretary determines appropriate for carrying out the duties of the advisory 551 committee effectively, including: 552 i. Not fewer than five practicing representatives of the acupuncture profession 553 of which at least four are state licensed acupuncturists. 554 ii. A veteran representative of each of the uniformed services; 555 iii. At least two veteran spouses, drawn from families in which the veteran has 556 experienced treatment by a state licensed acupuncturist. 557 iv. At least two representatives from Veterans Volunteer Service Organizations 558 v. A representative from one or more of the national acupuncture associations 559 (such as the American Association of Acupuncture and Oriental Medicine.) 560 vi. A Liaison representative from the Secretary of Defense. 561 (H) Chairman. - The Secretary of Veterans Affairs shall designate one member of the advisory 562 committee to serve as the Chairman of the advisory committee. 563 564 than three times each fiscal year, beginning in fiscal year 2014. 565 (J) **Duties.** - The advisory committee shall have the following duties; 566 567 Health Facilities. 568 569 570 (3) Advise the Secretary on the following: 571 i. Protocols governing referral to acupuncturist. 572 573 574 iv. Definition of services to be provided. 575 576 577

| 578        | system-wide, prepare and submit to the Secretary a report containing the advisory                 |
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| 579        | committee's evaluation of the implementation of such program.                                     |
| 580        | (K) Report The Secretary of Defense, following receipt of the report by the advisory              |
| 581        | committee under subsection, shall submit to the Committees on Veterans Affairs of the             |
| 582        | Senate and of the House of Representatives a report containing the following:                     |
| 583        | (1) A copy of the advisory committee report, together with the Secretary's comments on            |
| 584        | the report.   |
| 585        | (2) An explanation of the criteria and rationale that the Secretary used to determine             |
| 586        | that the program of acupuncturist services health care benefits was fully                         |
| 587        | implemented.  |
| 588        | (3) The Secretary's views with regard to the future implementation of the program of              |
| 589        | acupuncturist services health care benefits.  |
| 590        | SECTION 5 – ESTABLISHING A POLICY FOR QUALIFIED ACUPUNCTURISTS                                    |
| 591        | IN VETERANS HEALTH ADMINISTRATION.  |
| 591<br>592 | IN VETERANS HEALTH ADMINISTRATION.  |
| 592<br>593 | (A) Establishment of Program Not later than 120 days after the date of the enactment of this      |
| 593<br>594 | Act the Under Secretary for Health of the Department of Veterans Affairs, after consultation      |
| 595        | with the Acupuncture Advisory Committee, as established above in 38 USC Section 1710 (G),         |
| 596        | and acupuncture professional associations, shall establish a policy for the Veterans Health       |
| 597        | Administration regarding the role of acupuncture treatment in the care of veterans under          |
| 598        | chapter 17 of title 38, United States Code.   |
| 599        | (1) The policy shall include provisions for existing staff to provide services;                   |
| 600        | (2) Provisions for Personal Service Contracts and Hiring of Acupuncturists; and                   |
| 601        | (3) Establishment or any needed clarification of policies for the inclusion of qualified          |
| 602        | acupuncturists to serve as VA volunteers in hospice and nursing home units and                    |
| 603        | facilities after receiving training with existing volunteer organizations who provide             |
| 604        | trained volunteers.   |
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| 605        | SECTION - 6 - GENERAL AUTHORITY AND ADMINISTRATION.   |
| 606        |   |
| 607        | (A) In General. –   |
| 808        | (1) Section 7316 of Title 38 United States Code is amended at (a)(2) by inserting ',              |
| 609        | acupuncturist' after 'chiropractor'.  |
| 610        | (2) Section 7403 of Title 38 United States Code is amended at (a)(2) by inserting")               |
| 611        | acupuncturist" after "chiropractor".  |
| 612        | (3) Section 7421 of Title 38 United States Code is amended at (b) by inserting "(9)               |
| 613        | acupuncturists" after "chiropractors".  |
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| 615        | (B) <b>Effective Date.</b> —The amendment made by subsection (a) applies with respect to services |
| 616        | provided on or after January 1, 2014.   |

## **MEDICARE**

| 618<br>619<br>620  | A BILL to amend title XVIII of the Social Security Act to provide for coverage of qualified acupuncturist services under the Medicare Program. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,  |
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| 621<br>622   | SECTION 1. SHORT TITLE.   |
| 623  | This Act may be cited as the "Federal Acupuncture Medicare Coverage Act of 2013".   |
| 624<br>625   | SECTION 2: FINDINGS.  |
| 626  | This section is standard for all bills and included above.  |
| 627<br>628   | SECTION 3. COVERAGE FOR ACUPUNCTURIST SERVICES UNDER MEDICARE.  |
| 629<br>630<br>631<br>632<br>633                                    | <b>IN GENERAL.</b> –Acupuncturist services provided by qualified acupuncturists are to be included as an available service and reimbursed in Medicare Part A and Part B, for, but not limited to, conditions recognized by the WHO, for patients in hospitals, skilled nursing facilities, including hospice, and who are receiving home health care.   |
| 634<br>635<br>636<br>637<br>638<br>639<br>640<br>641<br>642<br>643 | <ul> <li>(A) In General Section 1861 of the Social Security Act (42 USC § 1395x)—is amended by</li> <li>(1) Renumber paragraph (b)(7) to (b)(8), paragraph (b)(6) to (b)(7), paragraph (b)(5) to (b)(6) and paragraph (b)(4) to (b)(5).</li> <li>(2) Striking at the end of paragraph (b) 3 the following: "excluding, however—" and inserting the following: "(b)(4) such qualified acupuncturist services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to in-patients either by such hospital or by others under such arrangements; excluding, however—"</li> <li>(3) In paragraph (h)(7), inserting after "nursing facilities", the following: "including qualified acupuncturist services"</li> </ul> |
| 645<br>646<br>647<br>648<br>649<br>650<br>651                      | <ul> <li>(B) In General.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended— <ol> <li>by striking "and" at the end of subparagraph (EE);</li> <li>by inserting "and" at the end of subparagraph (FF); and</li> <li>by adding at the end the following new subparagraph: "(GG) qualified acupuncturist services (as defined in subsection (iii));".</li> </ol> </li> </ul>   |
| 653  | (C) Services Described.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by   |

adding at the end the following new subsection: "Qualified Acupuncturist Services "(iii)

655 (1) The term 'qualified acupuncturist services' means such services furnished by a 656 qualified acupuncturist (as defined in paragraph (2)) and such services and supplies 657 furnished as an incident to services furnished by the qualified acupuncturist which 658 the qualified acupuncturist is legally authorized to perform under State law. 659 (2) The term 'qualified acupuncturist' means an individual who has been licensed as an 660 acupuncturist by a State or the District of Columbia (or in the absence of state licensing, is certified in Acupuncture or Oriental Medicine by the National 661 Certification Commission for Acupuncture and Oriental Medicine). 662 663 (D) Payment Rules. — 664 665 (1) DETERMINATION OF AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395I(a)(1)) is amended— 666 i. by striking "and" before "(Z)"; and 667 668 ii. by inserting before the semicolon at the end the following: ", and (AA) with 669 respect to qualified acupuncturist services described in section 670 1861(s)(2)(GG)), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for purposes of this clause (the fee 671 672 schedule amount shall be equal to the amount provided under section 1848 for the same service when performed by a physician);". 673 674 (2) Sec. 1842(b)(18)(C) (Free choice by patient guaranteed through the use of private contracts by Medicare beneficiaries through provisions relating to the Administration 675 676 of Part B) is amended by inserting "vii. A licensed acupuncturist (as defined in section 677 )." after "nutrition professional."; (3) Sec. 1842. [42 U.S.C. 1395u] (Provisions Related to Administration of Part B) is 678 679 amended at (b)(18(c) by inserting at the end, "vii Qualified Acupuncturist (as defined 680 in section ) SEPARATE PAYMENT FOR SERVICES OF INSTITUTIONAL PROVIDERS.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is 681 682 amended i. in clause (i), by inserting "and in the case of qualified acupuncturist services 683 684 furnished on or after January 1, 2014," after "1999,"; 685 ii. in clause (ii), by inserting "or in the case of qualified acupuncturist services 686 furnished on or after January 1, 2014," after "1999,"; and 687 iii. in clause (iii), by inserting "(other than qualified acupuncturist services)" 688 after "such services". 689 (E) Effective Date. —The amendments made by this section apply to services furnished on or

after January 1, 2014.

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### Public Health Service Corps 693

- 694 A BILL to amend the Public Health Service Act to authorize the appointment of qualified acupuncturists 695 to regular and reserve corps of the Public Health Service Commissioned Corps, and for other purposes.
- Be it enacted by the Senate and House of Representatives of the United States of America in Congress 696
- 697 assembled,

#### **SECTION 1. SHORT TITLE.**

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This Act may be cited as the 'Acupuncturist Membership in the Public Health Service Commissioned Corps Act of 2013'.

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#### **SECTION 3. DEFINITIONS.**

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- (A) Qualified Acupuncturist Services. The term 'qualified acupuncturist services' means such services furnished by a qualified acupuncturist (as defined in paragraph (B)) and such services and supplies furnished as an incident to services furnished by the qualified acupuncturist which the qualified acupuncturist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).
- 709 (B) Qualified Acupuncturist. - The term 'qualified acupuncturist' means an individual who has 710 been licensed, as an acupuncturist by a State or the District of Columbia (or in the absence of 711 state licensing, is certified in Acupuncture or Oriental Medicine by the National Certification

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### SECTION 3. ACUPUNCTURISTS IN THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS.

Commission for Acupuncture and Oriental Medicine).

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- (A) Appointment of Personnel. Section 207(a)(1) of the Public Health Service Act (42 U.S.C. 209(a)(1)) is amended by inserting `acupuncture, after `nursing,'.
- (B) Authorization of Appointment of Qualified Acupuncturist. Section 207 of the Public Health Service Act (42 U.S.C. 209) is amended by adding at the end the following new subsection: '(j) Appointment of Qualified Acupuncturists –Qualified acupuncturists shall be eligible for appointment as officers in the commissioned Regular Corps and the Ready Reserve Corps of the Public Health Service. The Secretary and the Surgeon General shall ensure that such acupuncturists are trained, equipped, and otherwise prepared to fulfill applicable public health and emergency response service responsibilities in the Commissioned Corps.'.
- (C) Required Placement of Acupuncturists Into Public Health Service Commissioned Corps. -
  - (1) IN GENERAL. Not later than 90 days after the date of the enactment of this Act, the President, in consultation with the Surgeon General and the Secretary of Health and Human Services, shall commence the appointment of no fewer than 6 acupuncturists into the commissioned Regular Corps and the Ready Reserve Corps of the Public Health Service.

- (2) REPORTS- The Surgeon General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health Education Labor and Pensions of the Senate quarterly reports on all measures taken by the President, the Surgeon General, and the Secretary of Health and Human Services to carry out the provisions of this Act, including the amendments made by this Act. The first such report shall be submitted not later than 120 days after the date of the enactment of this Act.
- (D) **Authorization of Appropriations.** Out of the total aggregate appropriations made available to the Department of Health and Human Services through annual appropriations Acts for fiscal years 2014, 2015, 2016, and 2017, \$1,500,000 is authorized and shall be made available in each of such fiscal years only for the salaries and expenses necessary to carry out this Act.