SPRING 2024

UC SANTA BARBARA

THE UNDERGRADUATE JOURNAL OF HISTORY

Vol. 4 | No. 1

© The UCSB Undergraduate Journal of History
3236 Humanities and Social Sciences Building
The Department of History, Division of Humanities and Fine Arts
The University of California, Santa Barbara
Santa Barbara, California
93106-9410

Website
https://undergradjournal.history.ucsb.edu/

Submissions

Papers can be submitted for publication anytime through our submission portal on our website. Manuscripts must be between 3,500 and 7,500 words long and completed as part of a student's undergraduate coursework at an accredited degree-granting institution. Recent graduates may submit their work so long as it is within 12 months of receiving their degree. The Journal is published twice yearly in Spring and Fall. See the Journal website for more information.

Cover Image:

Sunset Surfer at Campus Point. UCSB Digital Asset Collection. Matt Perko.

The United States of Acupuncture: An Assessment of Medicolegal Designation and Insurance Coverage's Impact on US Practitioners

Roselind Zeng[1]

Currently, American institutions operate under a societal framework of common law, representative democracy, and the increasing presence of corporatocracy. The US healthcare system, by and large, is no exception. While the specificity of language found in legal codes and insurance terms dictating the healthcare market can serve to complement the specialization of fields found in biomedicine, this precision works against the holistic framework that Chinese Medicine, and by extension, acupuncture, operate under. In addition, biomedicine itself has continuously grappled over the decades with the consequences of favoring specialist over general practitioner care, resulting in the redirection of profit towards specialty physicians, to the detriment of patients and the medical industry as a whole.[2]

The acupuncture community has carved out a separate space for itself as a response. It has been advertised as either a complementary treatment working hand-in-hand with biomedicine to amplify its efficacy or a complete alternative serving as "a parallel to biomedicine rather than [being] integrated into the biomedical system."[3] As a result of growth seen over the past few decades, acupuncture has slowly piqued the interest of state legislators trying to make sense of a very foreign medical paradigm in efforts to streamline acupuncture into standard practice.[4] Thus, a tenuous balance exists between each element of the medicolegal system: federal and state governments, regulatory boards, insurance companies, and acupuncture practitioners, each with a specific vision for acupuncture's place in the US today.

It is within this environment that Chinese Medicine evolved in America. I argue that the establishment of acupuncture in US law and insurance policy across all fifty states indicates the transition of the practice from merely being an element of "Chinese Medicine" to a clearly-defined

---

[1] Roselind Zeng is a senior History major at UC Santa Barbara. Her interests lie in the history of medicine, East Asian history, and American history.

[2] James C. Whorton, *Nature Cures: The History of Alternative Medicine in America* (New York: Oxford University Press, 2002), pp. 248-49.

[3] Emily S. Wu, *Traditional Chinese Medicine in the United States: In Search of Spiritual Meaning and Ultimate Health* (Lanham, MD: Lexington Books, 2013), pp. 89 & 103.

[4] Little Hoover Commission, "Regulation of Acupuncture: A Complementary Therapy Framework," September 2004, p. i, https://lhc.ca.gov/report/regulation-acupuncture-complementary-therapy-framework.

consumer enterprise of complementary medicine that can be incorporated into the biomedical model recognized by current insurance entities. As a result of a lack of federal oversight, a piecemeal system has emerged from which acupuncture practitioners must choose how to establish their practice. In this process, any deviation by said practitioners from these variant regulatory definitions affects both the legality and profitability of their practice, creating the uniquely rigid yet highly interpretive medicolegal tradition of American Chinese Medicine operating in tandem with a capitalist system that I would instead coin, as "United States Chinese Medicine."[5]

Historical Context

To make sense of acupuncture's role in the US medicolegal system in the twenty-first century, I will detail Chinese Medicine's separate arrivals into the US to demonstrate its capacity to evolve when transplanted into a foreign cultural context. The distinction of each developmental stage of Chinese Medicine is important to make because it clarifies how the term "Oriental Medicine" in state and federal law is both an anachronistic and reductionist view that the US unfortunately still holds when classifying acupuncture.[6] By the publication of the Little Hoover Commission's report in 2004, thirty-one years after Nevada became the first state to legislatively define the term "Oriental Medicine," no further expansion upon the terminology had been made, despite the report's premise as an in-depth inquiry into the improvement and integration of acupuncture into California law. As shown in later sections, many state boards and educational institutions for acupuncture still retain the use of "Oriental" in their names to this day, solidifying an archaic understanding of an alternative field of medicine for prospective practitioners. To avoid the same pitfalls of these legal and educational institutions, this paper will expand the umbrella term "Oriental Medicine" into five different terms defined in chronological order: Chinese Medicine, Chinese Medicine in the US, Traditional Chinese Medicine, Tyler Phan's American Chinese Medicine, and what I posit is its final form, United States Chinese Medicine. As it currently stands, early legal precedents following Traditional Chinese Medicine acupuncture's arrival in the US during the 1970s have directed public and private medical insurance's handling of acupuncture coverage for Americans, delineating it from the practices of the nineteenth century. Turning into American Chinese Medicine, this form of acupuncture's isolation from the rest of this vast historical context caused a fundamental misunderstanding of this medical paradigm between bureaucratic medicolegal entities and between these entities and practitioners. The resulting issues in legality and profit fundamentally shifted how practitioners conduct their businesses across all fifty states, thereby creating United States Chinese Medicine.

[5] Tyler Phan, "American Chinese Medicine," PhD diss., (University College London, 2017), p. 17. https://discovery.ucl.ac.uk/id/eprint/1571107/1/American%20Chinese%20Medicine%20-%20FINAL.pdf.

[6] Little Hoover Commission, "Regulation of Acupuncture," p. vii.

Chinese Medicine

"Chinese Medicine," while often used as a catch-all term, is, for the purposes of this analysis, the medical framework that originated in the Han Dynasty and predated the arrival of biomedicine. However, it is important to note that Western biomedicine in itself is not a fixed entity and should not be given the same treatment that Chinese Medicine has in its being Orientalized. Both should be viewed as diagnostic and treatment paradigms in their own right, each with their respective evolutions. Historiographic analyses of their interactions should be free of the biases of a medical paradigm's "correctness" when conducting empirical observations, which has dominated the narrative in the past and still carries on in current debates on efficacy.[7] Throughout the evolution of Chinese Medicine, it has been the perception of (as opposed to actual) efficacy that has impacted the West's acceptance of Chinese Medicine as a form of medical treatment.

The oldest written record of Chinese Medicine is the *Huangdi Neijing,* known in English as the *Yellow Emperor's Inner Canon.* As the oldest surviving Chinese medical treatise from the Han Dynasty (202 BCE to 220 CE), it was presumably authored by the deified Yellow Emperor and acts as one of the seminal texts upon which Chinese medical theory is still based today. Drawing upon older texts such as this one to form new theories, lineages of texts materialized around different schools of practitioners and techniques to form the medical canon within China in the ensuing centuries.

Chinese Medicine, traveling by way of European missionaries and trade, culturally diffused westward. During this time, the West was an active participant in this exchange, seeking out Chinese treatments when compelled to learn about them. During the 1600s, when the dominance of the biomedical model had not taken hold yet in the West, Westerners trained "under local physicians in exchange for teaching them the rudiments of Western medicine."[8] Notably, acupuncture and moxibustion were the first aspects of Chinese Medicine to be recorded in Western medical literature, and were subsequently disseminated throughout Europe in the following centuries as Chinese Medicine's major contributions to healthcare. This European strain of acupuncture made its way to North America through colonialism, and the fixation upon these two elements of Chinese Medicine during this formative period led to the equivocation between acupuncture and American Chinese Medicine later on. In the 1670s, Dutch physician Willem Ten Rhijne acquired acupunctural knowledge and produced the first Western medical treatise to mention acupuncture, *De acupunctura*. One point to consider is that Rhijne studied Chinese Medicine for two years while at a Dutch trading post in Nagasaki, Japan; another is that Whorton refers to what Rhijne learned as "traditional Chinese

[7] See Linda Barnes's book, *Needles, Herbs, Gods, and Ghosts: China, Healing, and the West to 1848* (Cambridge: Harvard University Press, 2007), p. 185, for more on how biomedical surgical procedures were observed in contrast to acupuncture in the 1600s.

[8] Whorton, *Nature Cures*, p. 259.

Medicine."[9] Throughout the narrative of Chinese Medicine, there are inconsistencies in both the sourcing of acupunctural knowledge and the terminology used to describe it in historical and scholarly contexts. This lack of consensus on the epistemic root of acupuncture lies at the heart of the present-day disconnect between state governments and practitioners and, to an extent, disagreements within the practitioner community itself.

A leap toward the development of American Chinese Medicine was the arrival of Chinese Medicine in the American colonies and its propagation during the early years of the US. For the most part, during the colonial period, according to Linda Barnes' book *Needles, Herbs, Gods, and Ghosts,* "Only the tea trade flourished. That the leaves were successfully distributed... attests to the feasibility of creating a market for Chinese medicines... but acupuncture— apart from tapping— was primarily a matter of comparative curiosity."[10] Presumptively, Chinese Medicine made its way to the North American continent through the English. The aforementioned "curiosity" in acupuncture gave way to "disrepute stemmed from several sources," which were likely infections, lack of hands-on training from Asian practitioners, excessive pain, and the disregard for Chinese medical theory when initially practiced on prisoners in Philadelphia's state penitentiary in 1825 by Franklin Bache, the great-grandson of Benjamin Franklin.[11] As Tyler Phan notes, although Bache's clinical trials of acupuncture showcased Chinese Medicine to a predominantly white America, it was relegated to academic probing through the lens of Orientalism and was not seriously considered for maintaining public health, contrasting the way it would be later employed by Chinese diaspora.[12] In observation of how tea was more welcome than acupuncture, the negative reception of Chinese Medicine became a running motif throughout American history. The "Chineseness" of the practice became less defined by its geographic proximity to its country of origin and more so through a lens of exoticism and wonder towards Asia, which is the very definition of Orientalism.[13] This indulgence in a foreign medical framework is further sustained insofar as it does not cause harm or revulsion to those who partake in it. For those encountering Chinese culture for the first time, steeping tea leaves seems comparatively charming compared to the prospect of being stuck with a needle.

While some readers may question whether this period of early interest in the colonies and the United States can still be regarded as Chinese Medicine as defined at the start of this section, I maintain

---

[9] Barnes, *Needles, Herbs, Gods, and Ghosts*, p. 75; Whorton, *Nature Cures,* pg. 259.

[10] Barnes, *Needles, Herbs, Gods, and Ghosts*, p. 125.

[11] Whorton, *Nature Cures*, p. 260. Here is another testament to the experimentality of acupuncture at the time. Not to be tested on the rest of the population, the first subjects of a US clinical trial on acupuncture were individuals who forfeited their freedom by criminally breaching the social contract. This can be seen as the first instance of acupuncture's implementation within a legal gray zone.

[12] Phan, "American Chinese Medicine," p. 34.

[13] See Phan, "American Chinese Medicine," pp. 29-30, for a more robust definition of Orientalism.

that it can. The fundamental way in which Chinese Medicine was understood and practiced remained unaltered in East Asia despite American experimentation during this time. In China today, "textbooks used to train traditional doctors are contemporary interpretations and clarifications of Qing dynasty (I644–I9II CE) commentaries [which are themselves based on] reworkings of earlier material... Such transmission through the dynastic pathway not only preserved and encapsulated the original sources, but also elucidated and reformed them."[14] Within its country of origin, there has been a sustained effort to retain a historical understanding of the body and wellness even as techniques were improved upon and refined. Instead, within the experimental confines of a relatively small population of elite Sinophiles sprinkled across Europe and America, acupuncture took on an entirely different form separated from its epistemology. Yet even in this altered form, this was not a paradigm shift, but rather the misinterpretation of and disregard for proper technique as identified earlier. As Linda Barnes states, "Insofar as observers attempted to understand what they saw, heard, tasted, and felt, they did so with the assumption that China should be theirs to know, in tandem with a conviction that reality could be fully known and just as fully documented."[15] Chinese Medicine was made out to be an acquired luxury in the United States by the early 1800s. Still, its establishment and exploration created a misrepresentation, not a transformation, of both it and acupuncture on this side of the Atlantic.

Outside of East Asia, Chinese Medicine has never fully escaped questions of its efficacy. Nowadays, when Chinese Medicine is discussed in a Western context, there is a tendency to dismiss it along the lines of "Either the cure was a placebo effect, or it was an accident."[16] Even if given the benefit of the doubt, Chinese Medicine is given credibility due to "ancient wisdom" or "spiritual holism" that Western biomedicine lacks.[17] By delegitimizing Chinese Medicine through accusations of mysticism and inefficacy to maintain Western biomedicine's hold on knowledge and healing, Chinese Medicine has been systemically misunderstood and forcibly inserted into a worldview that conceptualizes the source of illness, the presentation of symptoms, and the implementation of treatment in fundamentally incompatible ways.[18] Beyond just the semiotic differences, Chinese Medicine's lack of germ theory and lack of direct causation between observable bodily phenomena and a set of symptoms immediately renders it noncredible by biomedical standards. However, Chinese Medicine must be regarded as effective based on its own criteria to avoid an apples-to-oranges fallacy. This crucial incompatibility will later rear its head in US insurance policy, where efficacy is the standard by which practitioners are compensated.

---

[14] Ted Kaptchuk, *The Web That Has No Weaver: Understanding Chinese Medicine*, 2nd ed. (New York: McGraw Hill, 2000), p. 23.
[15] Barnes, *Needles, Herbs, Gods, and Ghosts*, p. 125.
[16] Kaptchuk, *The Web That Has No Weaver*, p. 13.
[17] Kaptchuk, *The Web That Has No Weaver*, p. 13.
[18] Kaptchuk, *The Web That Has No Weaver*, p. 14.

Chinese Medicine in the US

To clarify terminology, "Chinese Medicine in the US" is the Chinese diaspora's use of Chinese Medicine immediately following the first wave of Chinese migration to the U.S..[19] The Chinese brought Chinese Medicine with them in the mid-1800s as their own specific understanding of health and wellness. They still represented the extant form of Chinese Medicine, and only taking relocation into account does not wholly transform it. Therefore, Chinese Medicine in the U.S. holds true to its name. It is still Chinese Medicine that is practiced within the borders of the U.S. Not to be confused with United States Chinese Medicine, this version sees Chinese Medicine slowly adapted to fit within the socio-political landscape of the U.S. from the 1850s until now to serve the Chinese American community.

One of these migrant communities found its home in San Francisco, California. Today, "with the Bay Area's rich diversity, the Chinese ethnics[... include] Generations of the oldest families[...] constantly joined by newcomers, whether legal or illegal, in poverty or in wealth."[20] These thriving communities serve as a foil to the Traditional Chinese Medicine I am about to discuss: they are the product of generations of grassroots efforts to keep the Chinese community intact amidst targeted, legalized Sinophobia, all the while preserving Chinese Medicine as a cultural heritage during the process of assimilation. The arsons committed against Chinatowns during Chinese Exclusion in the 1880s revealed the importance of herbal shops and traditional healers to early West Coast Chinese communities, who rebuilt them repeatedly to preserve a physical monument of their identities.[21] They contribute to the narrative of Chinese Medicine as alternative medicine, serving a marginalized community in a country firmly situated in biomedicine, which was ruled by an aggressively hostile white majority at the time.

In the decades following the Gold Rush in 1848, the West Coast Chinese diaspora dispersed into different communities while molding themselves to fit into a prescribed Orientalized identity to serve both a Chinese and white customer base. As a result, Chinese Medicine in the US began to diverge from its earliest form into what was later recognized as US Chinese Medicine. As Phan puts it, the Gold Rush, paired with instability in China, inspired Chinese immigrants to seek the American

[19] Phan, "American Chinese Medicine," p. 35.

[20] Wu, *Traditional Chinese Medicine in the United States*, p. 18. Refer to this book for more on the complete evolution of Chinese Medicine within the San Francisco Bay Area.

[21] Wu, *Traditional Chinese Medicine in the United States*, p. 29. The following sentences are especially poignant: "Photo documentation of significant moments of Chinese American history in the Bay Area show proud records of individuals who became Western biomedical doctors[...] In contrast, traditional Chinese doctors in Chinatowns were largely silent and invisible, at least in terms of historic documentation."

Dream on the West Coast.[22] Then, the first connections between consumerism and Chinese Medicine began to form. Serving both Chinese and white patrons was most likely another self-protective measure for Chinese Medicine practitioners, who found allies within white communities through their healing.

In summary, an East vs. West Coast dichotomy was initially formed in Chinese Medicine and found in the United States. A European supplantation on the East Coast was maintained for the sake of observation and experimentation. On the West Coast, Chinese immigrants who were keen on its daily use brought a folk version of Chinese Medicine. With time, this West Coast variant of Chinese Medicine also began to assimilate into American expectations of what Chinese Medicine should look like as a method of self-preservation. This catering to foreign perception laid the groundwork for the arrival of Traditional Chinese Medicine to the US in the following century.

The Arrival of Traditional Chinese Medicine in the US

Within China, Chinese Medicine experienced its own evolutionary cycle. Traditional Chinese Medicine, as defined for the purposes of this argument, is the formulation of Chinese Medicine under the guidance of the Chinese Communist Party (CCP) post-1949. In 1971, the year of Nixon's diplomatic visit, China was in the middle of the "Cultural Revolution, when activity in the field of Chinese medicine contracted under the guidance of ideological simplification."[23] This simplification lent itself to dissemination to and further experimentation by other countries, cementing Traditional Chinese Medicine's pivotal role as one of China's implements of soft power and the progenitor of American Chinese Medicine.

During the 1971 visit, the US came into contact with acupuncture when *New York Times* journalist James Reston, who was reporting on renewed Sino-American relations, was treated for pain with acupuncture following an appendectomy in China.[24] Using his platform to speak about his positive experience, acupuncture was thrust into the public spotlight in the States.[25] This, in turn, opened up acupunctural diplomacy between the US and China, providing some legitimacy to those who were currently practicing in the States. The UCLA cohort was the specific group responsible for the creation of AB1500, the first acupuncture bill in the United States, which was given national attention directly following Reston's report. As a result, the cohort rose to prominence as the

[22] Phan, "American Chinese Medicine," pp. 34 & 37.

[23] See Linda Barnes and TJ Hinrichs, eds., *Chinese Medicine and Healing: An Illustrated History* (New York: Harvard University Press, 2013), p. 241, on China's attempt at creating a biomedical-Chinese Medicine dual framework in the past seventy-five years.

[24] Whorton, *Nature Cures*, p. 256.

[25] Phan, "American Chinese Medicine," p. 81.

Californian authority for acupuncture.[26] With that, acupunctural diplomacy catalyzed the formation of a professional community around acupuncture in the U.S., upon which the advocacy for and the specialization of practitioners interested in alternative medicine organized itself.

To elaborate on the contrast between Traditional Chinese Medicine and community-based Chinese Medicine in the U.S., I will examine each's respective source and agenda. Traditional Chinese Medicine was a state-sponsored project with political aims to uplift the status of a newly minted CCP government both domestically and internationally. Chinese Medicine in the US was instead a response to the Sinophobic political circumstances immigrants found themselves in and was a pragmatic, comforting part of the Chinese diasporic experience in the nineteenth century. Traditional Chinese Medicine has been dependent on both the U.S. and Chinese governments for its transmission and has loftier goals beyond treating the sick, namely "to reconfigure tradition in relation to the modern, and [define] how to be Chinese in relation to the world."[27]

As proven through the Yellow Emperor's authorship of the *Yellow Emperor's Inner Canon,* as well as Traditional Chinese Medicine's relationship to the CCP, Chinese Medicine has had a close (albeit not entirely inseparable) relationship with power structures within China. Removed from this legitimacy in the US, Traditional Chinese Medicine has had to reclaim said legitimacy first through popular support and subsequently through legalization. As a soft power initiative, it is a transformation from within China, a repackaging of Chinese Medicine for the consumption of both the Chinese people as well as a worldwide audience. Its novelty on the world stage started conversations over the professionalization and legalization of acupuncture, however, allowing Chinese Medicine in the US to make its debut in the public eye.

American Chinese Medicine

The arrival of Traditional Chinese Medicine begets the final historiographical iteration of Chinese Medicine observed thus far: American Chinese Medicine. Phan's major contribution to scholarship, American Chinese Medicine is defined as "the professionalized form of Chinese medicine established in the early-1970s [which] could best be described as 'Chinese medicine with American characteristics.'"[28] His precise definition of American Chinese Medicine focuses on states' controlling the practice and the privatization of regulatory bodies such as state acupuncture boards as an exercise of those states' rights, culminating in a demographic shift to white Americans rather than Chinese

[26] Phan, "American Chinese Medicine," pp. 79-83.

[27] Barnes and Hinrichs, *Chinese Medicine and Healing*, p. 241.

[28] Phan, "American Chinese Medicine," pp. 77-78. As quoted from Phan, the name mirrors how "the People's Republic of China adopted the State capitalist model described as 'Socialism with Chinese characteristics.'" A clear reference is made to the role that CCP's Traditional Chinese Medicine had in the formation of American Chinese Medicine through this naming scheme.

immigrants.[29] While the 1970s was a pivotal decade for Traditional Chinese Medicine and acupuncture, I would argue that the exact moment of American Chinese Medicine's inception can be traced to the establishment of the Chinese Medicine Act, SB448, in Nevada state law on April 20, 1973. SB448 legalized acupuncture under the supervision of a newly formed State Board of Chinese Medicine, later renamed the "Nevada State Board of Oriental Medicine."[30] Installing this state-to-board system came about by chance, as also seen in the situation surrounding the UCLA cohort. Retired lawyer Arthur Steinberg flew to Hong Kong with his wife to receive acupuncture treatments with Yee Kung Lok and helped lobby for SB448's passage. As a part of this initiative, Steinberg persuaded Lok to perform a demonstration for the Nevada State Legislature, which required the passage of its own "'emergency bill,'" SB420, to be legal.[31] This culminated in the codification of acupuncture exclusively into Nevada state law, officiating the previously mentioned equivocation of a single procedure with an entire medical paradigm.

Pursuing this legislation at the state level and delegating regulations to a board is what has attached "American" to Chinese Medicine. It establishes that knowledge and authority are not in the hands of practitioners henceforth but rather a select committee. SB448 set a precedent that for each state, laws would dictate a specific framework for Chinese Medicine based upon the Euro-American interpretation of Chinese Medicine constructed outside of the practitioner community to which all the forms of Chinese Medicine must then subscribe. By defining it as "that system of the healing art which[...] includes the practice of acupuncture and herbal medicine," it synonymizes American Chinese Medicine with acupuncture and herbal medicine in state code, elevating their status within Chinese Medicine. American Chinese Medicine and acupuncture have now become officially interchangeable phrases as a result.[32] Overall, this attempt to consolidate the practice under "Oriental Medicine," while not serving the Chinese Medicine community in its heterogeneous forms, distills Chinese Medicine into a graspable concept for the legislative branch to work with.

Importantly, the legalization of the practice implies that there are those who comply and those who do not. According to Michael Cohen, "The breadth of medical practice acts puts at least three groups at risk[...] The first consists of providers who lack licensure[...] The second group consists of licensed providers[...] who employ or refer patients to providers practicing medicine unlawfully[...] The third group[...] deemed to violate their legally authorized scope of practice by engaging in the diagnosis and treatment of disease."[33] Meanwhile, Chinese Medicine operates on a holistic worldview

[29] Phan, "American Chinese Medicine," p. 78.
[30] Phan, "American Chinese Medicine," p. 155.
[31] Phan, "American Chinese Medicine," pp. 153-57.
[32] Nevada State Legislature, "Chinese Medicine Act," SB448 § 3(4), (1973).
[33] Michael H. Cohen, *Complementary & Alternative Medicine: Legal Boundaries and Regulatory Perspectives* (Baltimore, MD: Johns Hopkins University Press, 1998), p. 29.

and emphasizes shared knowledge spread through available texts and the community.[34] Solidifying the parameters of their practice through the legalization process, therefore, disrupts the very way in which traditional practitioners can further knowledge within their field.

American Chinese Medicine's integration into the American medicolegal system transformed how practitioners could access patients and knowledge on the practice while complying with the law. Licensure hierarchies and rifts began to form between practitioners, who had to vie for the attention of boards and legislators to enact change within American Chinese Medicine. This all leads to a very individualized practitioner experience fueled by industry competition. By submitting to regulation, practitioners had to follow a different set of rules than the ones laid out in the *Yellow Emperor's Inner Canon* to participate in American Chinese Medicine.[35] As a result, American Chinese Medicine takes on an air of exclusivity as opposed to the widespread availability of Chinese Medicine.

In conclusion, current scholarship establishes that there have been multiple eras contained within the phrase "Chinese Medicine" within the US. Condensing them into a single term, Oriental Medicine, has proven unhelpful in deciphering legalese in the current medicolegal landscape. It portrays the legal system's basic conceptual recognition of Chinese Medicine but neither its complexity nor the extent to which its everyday practice is impacted by regulation.

The Rise of United States Chinese Medicine Through Acupuncture's Variant Medicolegal Definitions

In this section, I will explain how the precise definitions of acupuncture in different medicolegal contexts, paired with state jurisdiction over its legalization, have led to a lack of insurance coverage and care for patients nationwide. This element of insurance coverage differentiates United States Chinese Medicine from American Chinese Medicine. Through the context of profit, the balance between state and federal power over acupuncture has created a self-contained market within each state operating with a general lack of federal oversight. The unique insurance marketplace of each state, loosely controlled by state legislation, acts as the financial incentive for practitioners' attention when determining their state of choice. Thus, a localized union of confederate acupunctures emerged rather than a unified American one.

Federal Legislation

There is a single piece of legislation regarding acupuncture located in the Code of Federal Regulations. However, it is only concerned with legalizing the acupuncture needle. In its phrasing, it states that "An

[34] Whorton, *Nature Cures*, p. 258; Barnes and Hinrichs, *Chinese Medicine and Healing*, p. 40.

[35] See Barnes and Hinrichs, *Chinese Medicine and Healing*, pp. 34-35, for a summary of the Yellow Emperor's Inner Canon.

acupuncture needle is a device intended to pierce the skin in the practice of acupuncture."[36] There is no subsequent definition of what that entails — a vagueness that leaves room for state interpretation. In simpler terms, the federal government cedes its power to state jurisdiction on how acupuncture should be structured and overseen. The only point within federal-state consensus is that a practitioner must have access to the tool of their trade, but to what extent they can use it depends on where they are located. The following stipulation defines that "Acupuncture needles must comply with the following special controls: Labeling for single use only and conformance to the requirements for prescription devices set out in 21 CFR 801.109, Device material biocompatibility, and Device sterility.[37] The designation "prescription device" specifies that only a licensed individual is authorized in its use and, therefore, is an acknowledgment of the licensure of practitioners and the existence of an industry, just not an overt one. The only non-negotiable term for the federal government is that the medical instrument itself, the needle, does not threaten countrywide public health. Licensure and industry are left to the states to determine.

In terms of insurance, the 2010 Affordable Care Act (ACA) is the landmark federal initiative to attempt nationwide insurance coverage for citizens through both federal programs and private companies. It states:

> [I]f there were no requirement, many individuals would wait to purchase health insurance until they needed care. By significantly increasing health insurance coverage, the requirement, together with the other provisions of this Act, will minimize this adverse selection and broaden the health insurance risk pool to include healthy individuals, which will lower health insurance premiums. The requirement is essential to creating effective health insurance markets in which improved health insurance products that are guaranteed issue and do not exclude coverage of preexisting conditions can be sold.[38]

The ACA creates a market that private companies filter into by mandating that all Americans obtain health insurance to ensure competitively low costs. Therefore, I perceive the ACA as the catalyst for the modern-day insurance environment as it pertains to United States Chinese Medicine acupuncture. To fulfill consumer demand for acupuncture and increase their customer base, companies include an acupuncture clause in their terms to stay competitive. Beholden to varying state laws covering

---

[36] Food and Drug Administration, Department of Health and Human Services, "Acupuncture Needle," p. 21 CFR §880.5580(a), (1996), https://www.ecfr.gov/current/title-21/part-880/section-880.5580.

[37] "Acupuncture Needle," 21 CFR § 880.5580(b); "Acupuncture Needle," 21 CFR § 880.5580(b)(1); "Acupuncture Needle," 21 CFR § 880.5580(b)(2); "Acupuncture Needle," 21 CFR § 880.5580(b)(3).

[38] "Patient Protection and Affordable Care Act," Pub. L. No. 111–148 §1501(a)(2)(G), (2010), https://www.congress.gov/bill/111th-congress/house-bill/3590/text.

acupuncture, the most successful insurance companies must then cater their terms to laws within each state. Ergo, the acupuncture needle's safety and standardization and basic insurance coverage remain the only two constants across the country, with both forming the foundation upon which United States Chinese Medicine rests.

State Legislation

The system currently in place follows the regulatory board format first installed through the Chinese Medicine Act, although these boards do not necessarily have to be an acupuncture board.[39] The current field is split between physician acupuncturists and licensed acupuncturists who have separate routes to licensure, hence why I have refrained from using "acupuncturist" until now in favor of "practitioner," the umbrella term for the two.[40] To minimize confusion, I will continue to use "practitioner." There are three routes to licensure. As a physician, one can attend a short course or participate in an accredited institution's full course. For licensed acupuncturists, one must receive legal licensure through an accredited institution.[41] The regulatory board of each state works in tandem with three oversight bodies to dictate course load and licensure requirements, these three being the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM), the Accreditation Commission for Acupuncture and Oriental Medicine, and the Council of Colleges of Acupuncture and Oriental Medicine. According to Phan's findings, "Some states have refused to accept the authority of the national regulatory bodies, but those states are already shifting their political power to the three organizations. In particular, California, Maryland, and Nevada."[42] In these cases, national regulation is outsourced from the federal government to these three organizations, which then negotiate with states for power. However, the final decision still rests within the hands of a state on whether it submits to them. National regulatory bodies or not, they are not a branch of the federal

[39] Nevada State Legislature, "Chinese Medicine Act," SB448 § 3(2), (1973), https://www.leg.state.nv.us/Statutes/57th/Stats197303.html#Stats197303page635; Katerina Lin and Cynthia Tung, "The Regulation of the Practice of Acupuncture by Physicians in the United States," Medical Acupuncture 29, No. 3 (June 1, 2017): pp. 121–27, https://doi.org/10.1089/acu.2017.1235, p. 122.

[40] See Lin and Tung, "The Regulation of the Practice of Acupuncture," for each state's physician's requirements; Arthur Yin Fan and Sarah Faggert, "Distribution of Licensed Acupuncturists and Educational Institutions in the United States in Early 2015," *Journal of Integrative Medicine* 16, no. 1 (2018): pp. 1–5, https://doi.org/10.1016/j.joim.2017.12.003, p. 2, for an explanation on how practitioners' titles are used across different states.

[41] Fan and Faggert, "Distribution of Licensed Acupuncturists and Educational Institutions in the United States in Early 2015," p. 4.

[42] Phan, "American Chinese Medicine," p. 121.

government, and state governments hold more legal authority.[43] Consequently, state definitions of acupuncture take precedence.

For the purposes of my argument, my interviewees for the next section are from California and Maine. As such, I will discuss these two states' legal codes to illustrate how they affect said practitioners later on. California's current legislation is set by the California Department of Consumer Affairs Acupuncture Board, or California Acupuncture Board (CAB). This name inspired the premise of this argument— the primary state entity in charge of acupuncture in California serves consumers. The localization of Chinese Medicine is intended to convert it into a business that can be integrated into the business model characterizing modern US healthcare. The CAB defines acupuncture as:

> [T]he 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.[44]

Maine's current legislation on acupuncture is found on the website of the Department of Professional and Financial Regulation:

> Acupuncture means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpitation of specific points on the body and with or without the application of electric current or heat to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.[45]

---

[43] Phan, "American Chinese Medicine," p. 159.

[44] California Department of Consumer Affairs Acupuncture Board, "Laws and Regulations Relating to the Practice of Acupuncture," § 4927(d), (2022), https://www.acupuncture.ca.gov/pubs_forms/laws_regs/laws_and_regs.pdf.

[45] State of Maine Department of Professional and Financial Regulation, "Rule Chapters for the Department of Professional and Financial Regulation (Maine)," https://www.acupuncture.ca.gov/pubs_forms/laws_regs/laws_and_regs.pdf; State of Maine Department of Professional and Financial Regulation, "Board of Complementary Health Care Providers - Licensing - Acupuncture, Naturopathic Acupuncture, Naturopathic Doctor | Office of Professional and Occupational Regulation," https://www.maine.gov/pfr/professionallicensing/professions/board-of-complementary-health-care-providers/licensing/acupuncture-naturopathic-acupuncture-naturopathic-doctor#. The Rule Chapters for the Department of Professional and Financial Regulation do not contain this definition within its "Definitions" section. Instead, there are multiple lines that read, "[deleted]."

Compare both of these with Nevada's SB448 from 1973, which says, "'Acupuncture' means the insertion of needles into the human body by piercing the skin of the body, for the purpose of controlling and regulating the flow and balance of energy in the body."[46] From initial inspection, the two more recent offerings from California and Maine have further expounded upon SB448, but they do retain "insertion of needles" and "body," the core aspects of acupuncture. Where California and Maine diverge from Nevada is the purpose they view acupuncture as serving. Initially, it was for the "balance of energy." More recent definitions find more similarities with each other than with SB448 pertaining to purpose, claiming acupuncture is meant to "treat certain diseases and dysfunctions of the body" and to "modify the perception of pain" by interacting with "certain point or points on or near the surface of the body." This indicates a possibility that states either use the precedents set by each other to draft their laws or that they base their verbiage on the same set of reference materials from the three national regulatory bodies.

The key is in how both states' wordings differ from each other. Maine specifically mentions the use of "heat to the needles or skin, or both" and alludes to the "traditional oriental theories" behind the practice, which, as proven earlier, is a very loaded and imprecise term. Meanwhile, California's is couched in more technical phrasing, listing relevant therapies by name: "electroacupuncture, cupping, and moxibustion." The direct mention of a certain technique condones its usage and is interpreted as such. Insurance companies and legal rulings base their policy decisions on these wordings, further affecting how practitioners can exercise their medical knowledge. As a result, distinct state acupunctures emerge.

The practitioner-lawmaker experience gap is a possible reason why state law hones in on pain management. It is an observable, assessable symptom by which a legislator who is missing theoretical context may anchor the efficacy of treatment. Aside from pain, states have yet to agree on why and for what acupuncture is administered, whether or not it works, and, as a result, how it should be taught and regulated. This potential for inconsistency was noted in the Little Hoover Commission's assessment: "The process used by the Accreditation Commission of Acupuncture and Oriental Medicine appears to be superior to the school approval process used by the Acupuncture Board and could be used by the State to ensure the quality of education for potential licensees."[47] The CAB requires 3000 hours of participation in acupuncture training instead of the ACAOM's 1905 hours. Depending on the state, the path to licensure may be considerably more difficult, further complicating the situation for practitioners when choosing where to settle their practice. The conclusion drawn is that the more standardized acupuncture is, whether in licensure or practice, the easier it would be to

[46] Nevada State Legislature, "Chinese Medicine Act," SB448 § 3(1), (1973).
[47] Little Hoover Commission, "Regulation of Acupuncture," p. x.

efficiently enact systemic change across such a vast number of states. Instead, state specificity has created a set of fifty discordant environments in which acupuncture can reside.

One of the rare times the federal government has stepped in to mediate state matters was through the Supreme Court of the United States (SCOTUS) in *Andrews v. Ballard* (1980). A group of patients sued the Texas Board of Medical Examiners for ordaining acupuncture as a "practice of medicine," effectively limiting their access and encroaching upon their constitutional right to privacy.[48] SCOTUS ruled in the patients' favor, and conceded that while the board wanted to protect patients from "misdiagnosis, improper administration of acupuncture, and delayed remedy of complications," its efforts made acupuncture hard to access, and the rules "were not narrowly drawn to serve the state's interest in protecting public health."[49] Interestingly, SCOTUS highlighted how the board came to its conclusions from "a finding that acupuncture is an 'experimental procedure' [... but countered that] What is experimental is not acupuncture, but Westerners' understanding of it and their ability to utilize it properly."[50] Therefore, on the grounds that acupuncture is not experimental but a viable alternative, SCOTUS defended a citizen's right to choose as its priority. Here, the Texas Board of Medical Examiners lost the case for violating the individual's right to privacy, not because it was "out of harmony with a particular school of thought," proving yet again that the federal government keeps to itself regarding acupuncture unless constitutionality is jeopardized.[51]

In summary, the federal government's lack of involvement, paired with the disorganization between the state, state board, and national boards, is the root cause of troubled insurance coverage. These competing interests have mapped out a legal framework in which it is very difficult for both insurance companies and practitioners to achieve nationwide access to patients, leading to smaller, state-contained markets.

Federal vs. Private Insurance

Health insurance is built on this medicolegal foundation, becoming the economic incentive drawing practitioners to a particular state. To comply with state law and ensure the safest business model, insurance companies' terms defining acupuncture are kept to only pain management if they are defined at all. In doing so, United States Chinese Medicine's official, widely accessible role in the alternative market is to target pain rather than to function as a holistic treatment for the body. In addition, it frames patients in each state seeking acupuncture as both customer and product, with insurance mediating the relationship between practitioner and patient. This, in turn, generates a state-specific payment ecosystem in which practitioners see the most profit when marketing toward

[48] Cohen, *Legal Boundaries and Regulatory Perspectives*, p. 82.
[49] Cohen, *Legal Boundaries and Regulatory Perspectives*, p. 83.
[50] Cohen, *Legal Boundaries and Regulatory Perspectives*, p. 84.
[51] Cohen, *Legal Boundaries and Regulatory Perspectives*, p. 84.

pain management, leaving patients who need acupuncture for other conditions a smaller population of practitioners to choose from.

To examine the insurance ecosystem in detail it must be broken into two categories: federally offered insurance and private company insurance. Federal insurance is removed from this market-driven competition as it is a taxpayer expense. The ACA states that "No individual, company, business, nonprofit entity, or health insurance issuer offering group or individual health insurance coverage shall be required to participate in any Federal health insurance program created under this Act."[52] Therefore, federal health insurance is just an option; the requirement is that every citizen must have insurance. Federal power is pushed aside to favor private companies and states' interests. However, paying attention to federal definitions of acupuncture is important, as it covers a sizable portion of the population and sets another precedent for the federal government's stance. In Medicare, acupuncture is defined as "a technique where providers stimulate specific points on the body, most often by inserting thin needles through the skin."[53] This mirrors SB448's wording, indicating the federal intent to keep to early precedents rather than showing a preference for a specific state's amendments. Medicare's designation for acupuncture, however, is highly specific:

> Medicare Part B (Medical Insurance) covers up to 12 acupuncture visits in 90 days for chronic low back pain. Medicare covers an additional 8 sessions if you show improvement. If you aren't showing improvement, Medicare won't cover your additional treatments and they should be discontinued. You can get a maximum of 20 acupuncture treatments in a 12-month period.[54]

"Pain" and its "improvement" are the markers for treatment here and are the terms dictating coverage. This sets a generally transactional tone for acupuncture. The federal government monetarily rewards effective pain management for practitioners who target a specific part of the body and achieve results within a set timeframe.

Meanwhile, private healthcare insurance providers have variations based on state as a result of the aforementioned regulatory situation. For this, Anthem Insurance Companies Inc. offers coverage for both California and Maine. Acupuncture for UCSHIP members at the University of California, Santa Barbara, is defined as "Treatment of neuromusculoskeletal pain by an acupuncturist who acts

---

[52] "Patient Protection and Affordable Care Act," Pub. L. No. 111–148 §1555 (2010).

[53] Medicare.gov, "Acupuncture Coverage," Medicare.gov, accessed April 21, 2023, https://www.medicare.gov/coverage/acupuncture. Medicare is the federal health insurance program for people 65 or older. Medicare is entirely federally funded, but Medicaid is a joint effort between the federal and state governments. Therefore, Medicaid was not considered for analysis. However, note that Medi-Cal (California's version of Medicaid) covers acupuncture, while MaineCare (Maine's equivalent) does not.

[54] Medicare.gov, "Acupuncture Coverage."

within the scope of their license. Treatment consists of inserting needles along specific nerve pathways to ease pain."[55] While one would expect private insurance to cater to the demographics left out by federal coverage, this is not the case. In favor of legality, Anthem Blue Cross also chooses the safe route, only broadening the treatable area in comparison to Medicare's stipulations. In Maine, Anthem Blue Cross and Blue Shield is sparse in its wording when stating benefits for state employees: "The Plan provides Benefits for acupuncture."[56] Perhaps, through this strategy, the answer is clear: one's safest bet legally is not to define any terms aside from approval of coverage.

As such, both private and public insurance seemingly lean towards pain as their benchmark for successful acupuncture. However, an important takeaway from Roselle Bleck's study on acupuncture insurance coverage is that:

> The majority of the studies in our final sample were published over 10 years ago, demonstrating a lack of more recent literature on insurance coverage for acupuncture. Very few studies included nationally representative samples, and the articles that did present nationwide data did not compare insurance coverage between states and regions. In addition, most of the studies were conducted in six states, with a significant lack of data on insurance coverage of acupuncture in the Midwestern and Southern United States. We identified a lack of data related to private insurance plan benefits in the public domain; this represents a key research gap.[57]

It is hard to qualify the impact of insurance when not all states provide data. My preliminary findings corroborate Bleck's, however, in that "While acupuncture use is increasing in the United States, an increasing proportion of acupuncture users report having no insurance coverage for acupuncture."[58] Within each state, only practitioners treating pain are guaranteed insurance income, and patients must choose between plans, practitioners, or paying out of pocket to receive care. Likewise, practitioners must then decide on how to proceed for reimbursement and what bodily ailments they can treat to both legally and financially stay afloat should they not choose to stick to pain management. State

[55] Anthem Blue Cross Life and Health, "Benefit Booklet Anthem University of California Student Health Insurance Plan," accessed April 25, 2023, https://myucship.org/uc-santa-barbara/wp-content/uploads/sites/10/2022/07/UCSB_Benefit_Book_2022-2023.pdf.

[56] Anthem Blue Cross Life and Health, "Benefit Booklet State of Maine Health Plan," accessed June 12, 2023, https://www.maine.gov/bhr/oeh/sites/maine.gov.bhr.oeh/files/inline-files/13406ME%20R7-2020%20-%20State%20of%20Maine%20Health%20Plan%20-%20Benefit%20Booklet%20-%20Final_1.pdf.

[57] Roselle Bleck et al., "A Scoping Review of Acupuncture Insurance Coverage in the United States," SAGE Publications 39, No. 5 (October 2021): pp. 461–70, https://doi.org/10.1177/0964528420964214, p. 468.

[58] Bleck et al., "A Scoping Review of Acupuncture Insurance Coverage in the United States," p. 467.

licensure requirements and legal definition of acupuncture factor into where practitioners choose to obtain licensure and whether or not they will relocate from that initial state in the future should it prove unprofitable.

This is the current state of United States Chinese Medicine: departed from a holistic outlook on medicine in favor of focusing on the semantics of legalese and pandering to insurance companies contained within each state as it fuses with the healthcare business model championed by federal law. Those left behind are the practitioners, who must deal with the ramifications brought to them by the "medico-" and the "-legal" aspects of their practice firsthand.

The Practitioner's Dilemma

Throughout the previous two sections, I have traced the development of United States Chinese Medicine from its roots in Chinese Medicine and defined its characteristics. But is there truth to the claim that health insurance's interactions with the US medicolegal system have fundamentally changed American Chinese Medicine into United States Chinese Medicine? In this section, I will ground my research in the lived experiences of two practitioners to substantiate the claim that United States Chinese Medicine has severely limited practitioners' understanding and facilitation of acupuncture.

The subjects of my interviews are Hana Doustar, LAc, MS, Dipl. OM and Lauren Breau, MAcOM. Doustar is the founder and head clinician of The Clinic for Pain and Anxiety, operating out of Beverly Hills, California. Her specialties correspond with the title of her business.[59] She attended Dongguk University for her Master of Science degree in Traditional Chinese Medicine and Chinese Herbology, and Acupuncture. Breau founded Lewiston Auburn (L/A) Community Acupuncture in Maine. She focuses on serving her hometown by providing low-cost acupuncture treatments, and she received her Master's in Acupuncture and Oriental Medicine from the Oregon College of Oriental Medicine. Their educational backgrounds and mode of practice serve as interesting points of contrast. With each practicing on opposite coasts, one being a physician acupuncturist and the other a licensed acupuncturist, they reveal different sides to the insurance story. For Doustar, US medicolegal policies do impact alternative forms of healthcare:

> Medicare and insurance companies typically do not reimburse practitioners sufficient amounts for their services. And that not only deters doctors or alternative healthcare practitioners from giving service to insurance patients, but it also deters insurees from

[59] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023. Due to time constraints, Doustar was not available for an in-person or virtual interview. However, she took the time to record a few answers to the questions I had sent via email, and subsequently replied to a few follow-up questions via text.

> using any of their benefits for services. Essentially, there are less doctors that are available for the patient, and they aren't able to use their insurance.[60]

In how she navigates the medical system as a practitioner:

> There are preferred states that will cover treatments, and there are also states that are carrying a population that is more inclined to use alternative healthcare. So I suppose the way that medical practitioners navigate is by picking a district where demand is higher, and also where the insurance is better. We also work with chiropractors and other medical doctors who are M.D.'s, so building networks for us is a big part of the process.[61]

How in her opinion, legality impacts practitioners and care:

> I'm not quite sure that there are any legal issues pertaining to practitioners, I would say for Medicare, and this is across the board for any medical practitioner, is that charging has to be spot on. And that takes a lot of time for practitioners to keep up with the formal process of charging patient notes.[62]

On her experience at Dongguk in relation to navigating the medicolegal system:

> They didn't prepare us and I don't think any alternative school does. The problem is that our state license doesn't transfer to other states. We need to take a separate national license for it to be accredited in all states, but some states still require another exam. It's ridiculous. It's like an M.D. having to take their medical boards for every state. It doesn't make sense.[63]

On issues she has encountered with insurance:

> The hardship has been the balance between giving excellent care and dealing with insurance. Practitioners of any medical field are obviously more inclined to spend more time with cash-paying patients rather than insurance patients, but it's unethical to do so.[64]

These findings are a surprise given that even in California, one of the most acupuncture-friendly states, practitioner availability through the insurance system is so difficult to manage. However, they do confirm previous findings that insurance prioritizes practitioners who stay firmly within their scope of practice for pain and make an effort to stay within the insurance system. The detail concerning ethical issues stemming from patient billing was one not previously considered. "Cash-paying patients" relieve the strain on practitioners' financial burdens, but placing said burdens

[60] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023.
[61] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023.
[62] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023.
[63] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023.
[64] Hana Doustar (LAc, MS, Dipl. OM), interview by author, June 5, 2023.

upon the consumer defeats the purpose of the ACA mandating universal coverage to lower costs. For Breau, the situation seems much the same, prompting her to use her current method of running her practice:

> My model is low-cost, group setting[...] The community setting is quite simple, it's to expand access to ordinary people, via easy scheduling, affordability, and lots of different hours[...] For me, it's twenty-five dollars to come in for acupuncture, and I treat about one hundred fifty people per week[...] As a community acupuncturist, I qualify as a nonprofit[...] I do give people a receipt, and sometimes they do submit it to their insurance, and depending on who they have they do get reimbursed. It's only twenty-five dollars, but it's the equivalent of a copay. I do not accept insurance at all, it frees me up to actually spend my time with patients.[65]

She also was not primed for the logistics of the industry by her degree, and so she has pivoted her strategy to keep her options open and herself available to patients:

> The UCLA four, all that history— I wasn't taught any of that in school. Miriam Lee, all those people, I never learned about them, and how they had to fight for acupuncture. The only regulation is that I renew my license every year with the state, and that comes with a minimum amount of continuing education credits. And I do keep my NCCAOM credentials up-to-date, just in case I have to move[...] For me, it doesn't feel limiting at all.[66]

On leaving the realm of medical insurance entirely:

> The plans— coverage changes, and usually those changes are not super clear, so you're on the phone trying to figure out what is going on[...] In the time I worked in private practice, a business that had an insurance biller, they basically threw their hands up[...] At one point I put in a proposal to work at a hospital as a community acupuncture clinic, and after a year of red tape, we finally got approved. But only to see people for low back pain[... The hospital] couldn't open their brain enough to see that we didn't need to bill insurance at all. What I hear from other private practice practitioners is that they will end up putting down whatever will get covered. It gets sketchy, but it's the way people have to practice in order to get paid.[67]

But most important was her observation about the practitioner community at large:

> Acupuncturists are constantly discussing which insurances they will and won't take, and we're releasing patients into the wild[...] And within the world of acupuncture,

[65] Lauren Breau, (MAcOM), interview by author, June 9, 2023.
[66] Lauren Breau, (MAcOM), interview by author, June 5, 2023.
[67] Lauren Breau, (MAcOM), interview by author, June 5, 2023.

> there is cannibalism, private practice hating community acupuncturists, acupuncturists fighting with chiropractors, acupuncturists fighting with physical therapists about dry needling. So there's a lot of wasted energy with this fighting[...] So instead of educating, acupuncturist organizations end up putting all their energy into lobbyists who are going to fight [other alternative and complementary medical practitioners] for insurance coverage. And the insurance coverage is just never good.[68]

Breau's insight supplemented Doustar's in that insurance is finicky at best and hostile towards a successful practice at worst. Both agree that their education could not bridge the technical gap involved in running a practice in such a legally-entrenched system and that United States Chinese Medicine is severely decontextualized and pain-driven, especially concerning "lower back pain." Breau also confirmed that those who are vigilant must be ready to relocate and that practitioners who want to avoid diagnosing only pain find it hard to stay within the insurance framework. However, Breau's key comment on community infighting contradicts Doustar's emphasis on networks and solidarity. For those working through insurance to target pain, the practitioner community acts as a hub for medicolegal advice gained through experience, giving some sense of unity to the profession.

Meanwhile, for those who depart from the insurance system, their indeterminate medicolegal status potentially leads to financial and legal insecurity, causing arguments over priority and legitimacy within the complementary and alternative care fields. This is the fundamental difference between the experiences of the private practice physician acupuncturist and the community-based licensed acupuncturist. The former upholds the complementary element of acupuncture, while the latter serves as the alternative. Through its connection with the dominant biomedical system, the complementary branch holds a more mainstream position than the alternative branch of acupuncture. While neither is fully accepted by the US medicolegal system, the legitimacy of American Chinese Medicine seemingly depends upon a relationship with, rather than a rejection of biomedicine to be proven reliable and reimbursable. United States Chinese Medicine, through the chaotic bid for insurance, drives a wedge within the acupuncture community on what it views as a true alternative or another element of the biomedical system.

To summarize, there are more similarities than differences between two practitioners located on opposite ends of the country with very different consumer bases. These practitioners' experiences support the claim that United States Chinese Medicine is a transformation of American Chinese Medicine through its interaction with insurance. In the process, a two-party acupuncture has formed, one that feeds into the profit-driven insurance industry and another that works around it entirely. Medicolegal fixation on pain has caused exactly that for practitioners trying to offer their care beyond those specific terms, leading to divisions within the community on what acupuncture is supposed to

[68] Lauren Breau, (MAcOM), interview by author, June 5, 2023.

offer customers and how that will affect their competitiveness in the market of alternative and complementary healthcare.

Conclusion

Chinese Medicine has evolved. Its evolution in the US specifically involves the law-based society it has settled into. Following its simplification from Chinese medical canon, it was further whittled down into a neatly packaged version of acupuncture that was devised for the sake of enforceable regulation across the nation rather than ease of access for practitioners or patients. Insurance functioned as a middleman between patients and practitioners with policies that mirrored the rigidity of the state law that oversaw it. Payment left practitioners limited in their ability to practice acupuncture as the holistic treatment recorded initially in Chinese medical canon, thus undermining its efficacy. United States Chinese Medicine's inexorable connection to profit in a capitalist country has driven the profession to a crossroads. For a practitioner, one must decide between the health of a state industry or the health of one's community.