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From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]
Sent: Wednesday, 24 February 2010 10:03
To: [REDACTED]
Subject: Acupuncture in NZ

[REDACTED]
I am responding to [REDACTED] recent email to you.

I understand that you have recently arrived from the UK, and that you are asking the same sort of questions that I asked when I took up the post in the Ministry of Health, with responsibility for advice on developments in the complementary medicine sector and on the integration of CAM practitioners with mainstream health care.

I recently returned to NZ after 30 years in the UK and I was heavily involved in the UK CAM world when I was there (as well as being a consultant clinical epidemiologist in the NHS). At one stage I was a member of the British Acupuncture Council and Chair of the British Acupuncture Accreditation Board, so I am aware of how such professions can become riddled with internal politics (e.g., there were 5 separate UK acupuncture organisations which came together to form the British Acupuncture Council). However, I found NZ's acupuncture world particularly puzzling, not least the recognition of two acupuncture organisations in legislation by ACC. I have since been doing my homework and now have a clear picture of what has been going on.

I have attached some extracts from Hansard in 2004/5, which is the debate amongst MPs in Parliament around the bill that brought NZASA in legislation as an ACC treatment provider. The comments by Sue Kedgley (Greens), Pansy Wong (National) and Judith Collins (National) are particularly relevant. The question is why ACC Ministers recognised in legislation an organisation that was only set up in 2000 and had no members in 2004/5, at a time when there was a High Court judicial review under way about ACC's previous decision to recognise NZASA under regulation (the judicial review was based on the argument that NZASA accepted much lower standards of entry to the profession than NZRA).

There is obviously more to the story than this, but the Parliamentary debate is a good start! I am happy to meet with you and discuss this further if it would help.

Kind regards,

David

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Excerpts from Hansard concerning recognition of the New Zealand Acupuncture Standards Authority in legislation

(Dotted lines indicate sections not quoted as they refer to other aspects of the Bill.)

1. Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) — First Reading, 5 August 2004

SUE BRADFORD (Green):

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Before I go any further with medical misadventure and other aspects of this bill, however, I would like to deal with the potentially controversial subject of acupuncturists. One important aspect of the legislation in front of us this afternoon is that it amends the definition of acupuncturist in terms of who can treat people under accident compensation legislation. The proposal is to extend the definition of acupuncturists to include members of the New Zealand Acupuncture Standards Authority who have a health professional qualification and either a 1-year full-time postgraduate qualification in acupuncture or a level 7 diploma in acupuncture. At present, only members of the New Zealand Register of Acupuncturists are eligible for accident compensation treatment payments. I understand that the New Zealand Register of Acupuncturists is bringing legal action against the Government because of the Government's move to expand the pool of professional acupuncturists eligible for accident compensation payments. The Green Party intends to carry out its own further investigations into this issue, and our ongoing support for the bill is dependent on working towards a reasonable outcome in this area, which we hope will be satisfactory for all concerned.

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2. Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) – Report from the Health Select Committee, 17 December 2004

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Removal of extended definition of acupuncturist

We considered deleting the provision in the bill that extends the definition of acupuncturist to include some members of the New Zealand Acupuncture Standards Authority Incorporated but by majority decided against this. Some of us are concerned that this may undermine the Health Practitioners Competence Assurance Act 2003 process. The Green Party member is concerned that this could mean that there are effectively two scopes of practice for acupuncturists.

Acupuncture is not a profession covered by the Health Practitioners Competence Assurance Act, but we are hopeful that it will be. We are aware that acupuncturists are seeking to come under the Health Practitioners Competence Assurance Act. We note that the Ministry of Health has been working closely with acupuncturists to facilitate the preparation of a consensus application for acupuncture to come under the Health Practitioners Competence Assurance Act. We are pleased to see acupuncturists working together to resolve issues between acupuncture groups.

We are concerned that the names of the New Zealand Acupuncture Standards Authority and the New Zealand Register of Acupuncturists imply an official status

that they do not have. Both are incorporated societies with no statutory or official regulatory authority.

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Green Party minority view

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The Green Party strongly supports acupuncturists having one scope of practice and coming under the Health Practitioners Competence Assurance Act and is concerned that the amendment to the definition of acupuncture in this bill to include the New Zealand Acupuncture Standards Authority may undermine progress in this regard.

The Green Party believes that it is inappropriate to amend the definition of acupuncturist in a bill about ACC. We are concerned that this changed definition effectively creates two scopes of practice for acupuncturists and is therefore contrary to the spirit of the Health Practitioners Competence Assurance Act.

We are concerned that there was no consultation over the new definition with the acupuncture profession or its professional bodies. We are also concerned that the New Zealand Acupuncture Standards Authority offers only a local diploma, not one that is national in scope. We heard evidence that although the New Zealand Acupuncture Standards Authority course is offered at the Auckland University of Technology, no students have enrolled in the course since 2001, and that there is no clinical training component required in the actual course of study.

For all of these reasons we oppose the new definition of acupuncture in the bill.

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3. Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) — Second Reading, 3 May 2005

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BARBARA STEWART (NZ First) :

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We would also like to see the acupuncture groups in New Zealand agree on a unified professional body to represent their professional standards so that they can come under the Health Practitioners Competence Assurance Act. We discussed this aspect throughout the select committee process. That really has to happen.

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HEATHER ROY (ACT) : ACT New Zealand opposes the passage of the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) for a variety of reasons, which I will go into in a moment. First, I will just say a word about the select committee process. It was very rigorous, although a disproportionate number of the submissions heard came from the various acupuncture groups. There are four main groups in the country. Although many of the groups are working together very well and productively, some are not entering into discussions as we would perhaps hope they might. It would be encouraging to see the discussions continue and to see those groups form a united front and, as the previous speaker said, come to be regarded as one body under the Health Practitioners Competence Assurance Act. I think that that would be to the benefit of everyone. As I said, the bulk of the submissions came from the acupuncture groups, and this took up a huge amount of the time for the submission process.

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SUE KEDGLEY (Green) :

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As the representative from ACT said, there was a lot of concern about acupuncturists in terms of this bill. We continue to believe that it is inappropriate to amend the definition of acupuncturist in a bill that is about accident compensation. We strongly support acupuncturists having one scope of practice and coming under the Health Practitioners Competence Assurance Act. We are worried that the amendment to the definition of acupuncture in this bill will undermine progress in that regard, and that the changed definition could effectively create two scopes of practice for acupuncturists and is therefore contrary to the spirit of the Health Practitioners Competence Assurance Act. But the Minister seems to be assuring me that our concerns will be allayed, and we are absolutely delighted to hear that.

All of us on the Health Committee were incredulous at the degree of antagonism between the different groups of acupuncturists. We could not understand why the different segments of the acupuncture profession could not work together, resolve their differences, and put acupuncture under one particular scope of practice and under the Health Practitioners Competence Assurance Act. Given that acupuncturists as a profession have been trying to get statutory regulation for over a decade, we were deeply disappointed that our amendment to allow acupuncture to be put under the scope of the Health Practitioners Competence Assurance Act was turned down in this House. I think it was only New Zealand First that supported that amendment.

Hon ANNETTE KING: They weren't agreed, though. That was the problem.

SUE KEDGLEY: The Minister of Health is saying that the concern at the time—a concern of all of us—was the lack of consensus within the profession. We are absolutely delighted if the Minister is assuring us—and maybe she will just confirm this later on—that there is now agreement within the profession to have one scope of practice and to be brought under the Health Practitioners Competence Assurance Act.

I want to correct, for the record, a statement in the Green Party's minority report on the bill. We stated in our minority report that we were "... concerned that the New Zealand Acupuncture Standards Authority offers only a local diploma, not one that is national in scope." We were genuinely confused about that—as, in fact, most of the committee was, because the whole thing became thoroughly confusing. We acknowledge that the New Zealand Acupuncture Standards Authority is just an authority, and that the Auckland University of Technology offers the course and administers it, even if the personnel involved in both bodies are, I think, more or less the same.

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JUDY TURNER (Deputy Leader—United Future) :

Other speakers have mentioned the issue of acupuncturists. It was intended that the definition of acupuncturist would be extended so that a greater range of providers could be registered with ACC and able to claim accident compensation payments. The problem that developed was that the new group being included was not recognised by the groups currently recognised as accident compensation providers.

The Minister has reassured us that all is well and near completion, and I hope she is right, because what concerned me a little bit with this bill was that there was an attempt, and I do not think it was intentional, to use this bill to achieve an outcome that was really only possible under the Health Practitioners Competence Assurance Act. It is not an easy thing to come to terms with. For instance, we were given briefings about the number of organisations that currently consider themselves acupuncturists, the number of practitioners that each group has registered with it, and the kinds of qualifications each group requires. The range is

quite considerable and I can see the problems the group was having. However, I do believe that it is definitely the job of the Health Practitioners Competence Assurance Act, which has set up the legal mechanism so that any health practitioner group can become registered, to find commonality between the different disciplines within their own discipline, and put out a set of qualifications and scopes of practice that they will recognise.

There seem to have been some real problems in the ability of acupuncturists to work together, and if they are making headway on this, then we are very, very pleased. Often when one is a spokesperson for another party in health, one asks oneself: "If I were the Minister of Health, or the Minister for ACC, what would I do about such an issue?". I have to say that the frustration I felt on that matter was that I wondered why we were providing accident compensation for practitioners who had not yet reached some sort of agreement under the Health Practitioners Competence Assurance Act. If this is about to resolve itself, then that is great, but I would like to give acupuncturists a time frame and say: "If you cannot reach agreement and come under the Health Practitioners Competence Assurance Act by a set date, you are no longer entitled to be an ACC registered practitioner."

I suspect that the financial incentive would mean that they would very quickly find some common ground and would get their act together. We are talking about putting patients at risk if we are allowing people who are not competent to practice. We are talking about inserting needles into people's bodies as a treatment, and if they get that wrong they could create a whole set of other problems. It is really important that we call for this group to get their act together. Certainly, I was concerned that there was an opportunity for this legislation to act in a counter-productive way to the recently passed, very good, Health Practitioners Competence Assurance Act.

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4. Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) — In Committee, 4 May 2005

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PANSY WONG (National) : I want to raise some very serious issues, and I hope that the Minister in the chair, the Hon Taito Phillip Field, will take a call with regard to the recognition of another acupuncture treatment provider. When this bill is passed by Parliament, the New Zealand Acupuncture Standards Authority Inc. will be recognised as a treatment provider for claims by the Accident Compensation Corporation (ACC) alongside the New Zealand Register of Acupuncturists, the first to be recognised as a treatment provider before the 1990s. A High Court case challenging the process of the authority being recognised as a treatment provider was mounted, but a decision was made to drop the case because Parliament was going to pass this bill to recognise it anyway. So I would like the Minister in the chair to take a call to explain why, when there was a High Court challenge to the process, the Government insisted on debating and passing this bill to recognise the authority as an acupuncture provider.

But there is a more serious issue. Two other groups have been challenging the process whereby acupuncturist organisations are recognised by ACC as having treatment provider status. They are the New Zealand Traditional Chinese Medical Practitioners group and the New Zealand Chinese Acupuncture Association and Register Inc.

Before 1990 ACC decided to recognise the New Zealand Register of Acupuncturists Inc. as a treatment provider. The two other groups came before the Regulations Review Committee in 1990 and asked the corporation to publicise the process of recognising those treatment providers, but nothing has happened, even though the select committee concurred. Then 7 years ago, in 1998, the same groups had to again complain to the Regulations Review Committee, of which I am a member. Once again, the select committee found the ACC process wanting in recognising those treatment providers.

In 2003 the Minister, the Hon Ruth Dyson, wrote to the groups and said that it was inappropriate and a waste of time for those groups to apply to become treatment providers. At the same time the corporation was considering the recognition of the New Zealand Acupuncture Standards Authority Inc. I must say I become quite cynical in wondering whether the reason the two acupuncturist groups still have the doors closed on them is that they happen to be headed by New Zealand Chinese whose efforts in those processes have been frustrated. [Interruption]

The Labour member may find the whole thing funny, and laugh during this debate, but I am talking about a very serious issue. The two groups have been trying to get recognition as treatment providers since 1990, and I am wondering whether the fact that they are Chinese New Zealanders is the reason that the process has been frustrated for so long.

The Minister in her latest letter to the groups in July 2004 said that this bill would make an amendment to the process of recognising future treatment providers, and that the process would be by regulation rather than having to go through legislation, which invariably takes a long time. However, I read through the legislation quickly and did not quite see how that process is being incorporated in it. I therefore am taking no risk, and have tabled an amendment to the definition.

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SUE KEDGLEY (Green) :

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As I have already said, we will not be putting up an amendment, as we had intended to do, about the acupuncture provisions in the bill, because we were assured by the Minister yesterday that there is agreement amongst acupuncturists now. Apparently, they have reached agreement about a scope of practice.

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PANSY WONG (National) :

I am not sure whether I can persuade the Green member and the New Zealand First member to have less confidence in the assurance given by the Minister, the Hon Ruth Dyson, that the acupuncture sector will come together and start the self-regulatory process, without the Government making some specific commitment to ensure that an establishment council will be set up. It has gone down that path before, and has not come up with anything. In the meantime I would like the Government and all parties to consider accepting my Supplementary Order Paper, which states that any treatment providers that apply for that recognition after due process, with the final approval signed off by the Minister, can have their status recognised through regulation, rather than having to wait for another appropriate piece of legislation, which is taking a long time.

The reason I make that plea is that two of the potential applicants for recognition as treatment providers, the New Zealand Chinese Acupuncture Association and Register, and New Zealand Traditional Chinese Medical Practitioners Inc, have been waiting and fighting the battle for the last 15 years.

My confidence in the process is further lessened by reading this letter from the Hon Ruth Dyson to the New Zealand Chinese Acupuncture Association and Register, which raised the question about membership of the New Zealand Acupuncture Standards Authority, which this legislation seeks to recognise as the treatment provider. The question was whether their membership did cover 60 percent of the New Zealand acupuncture community. The Minister's reply suggested that the questioner approach the New Zealand Acupuncture Standards Authority directly and request that it publish its membership.

One would think that if due process had been completed it would be very simple for the Minister to reply, assuring the questioner that the applicant had membership that covered 60 percent of the New Zealand acupuncture community. I hope that it is not about one standard for the New Zealand - European dominated organisation, and a different standard that applies to an organisation that is dominated by Chinese - New Zealand acupuncturists. Otherwise, my confidence in the Minister would be shattered.

I hope the various political parties will look at my amendment and assure those two applicants that, after 15 years, if they are being treated fairly and going through due process, they can have recognition provided by regulation.

- Sitting suspended from 6 p.m. to 7.30 p.m.

PANSY WONG: I am really pleased that the Hon Ruth Dyson is now in the chair, because I know that the Minister is of a mind that the future recognition of treatment providers who have gone through due process and assessment by the Accident Compensation Corporation can be recognised through regulation, rather than wait through a lengthy process for the appropriate legislation to accompany that.

I read in a letter that the Minister specified that she thought this bill would have accomplished that, but I have read through the bill and I could not get any indication that that may be the case. That is why I am setting out a Supplementary Order Paper—to ensure that that process can be achieved. It would be very reassuring if the Minister could take a call to assure me that this bill can do that, because I cannot see it. If the Minister can assure me of that, then I am sure that other political parties who have now indicated to me their support for this Supplementary Order Paper can take the appropriate action.

As I said, two acupuncturist organisations have been fighting the process for the last 15 years, and once they are allowed to go through a due diligence process, I hope that the recognition of them, if they are successful, will not be further delayed by a legislative process through Parliament. I await with interest the answer from the Minister as to whether the bill addresses this issue.

JUDY TURNER (Deputy Leader—United Future) :

I will take a brief call in response to the National Party member Pansy Wong's amendment.

I start by saying that I support her intention. I agree that acupuncturists—traditional Chinese acupuncturists, in particular—have had a very long journey in trying to get their professional qualifications recognised. Over the years—and this is a separate issue from this bill—they have been courted by smaller groups with lower standards of qualification who are, I guess, trying to be heavy in on the scene. It has just caused delay after delay. However—and I have explained this to the member—United Future cannot support the amendment, purely because, although the intention is right, I believe the correct mechanism for resolving this is the Health Practitioners Competence Assurance Act.

I am hopeful that, as the Minister says, those groups are now close to a solution. If she is right, that is absolutely excellent. But I was concerned, again, at an attempt to bring about resolution through this legislation by recognising, outside of the Health Practitioners Competence Assurance Act, groups that had not submitted properly to the process that is available to them. I accept there has possibly been some real game-playing in that regard for some time, and I certainly understand the frustration that traditional Chinese acupuncturists, in particular, have had to put up with.

However, I think I mentioned at the second reading that if I had my way, we would use the motivation of finance to say that if a group cannot get registered under the Health Practitioners Competence Assurance Act, then it should not be entitled, as a profession, to Accident Compensation Corporation registration. I think if a time frame was put around that—if a group was given a period of time to get registered under the Health Practitioners Competence Assurance Act—we would find that acupuncturists would very quickly become motivated to sort out their little differences, settle on a scope of practice with all that that involves, and very quickly come forward with an application form. Then we could all move on as happy campers.

So United Future will not be supporting this amendment, although we absolutely share the concern about the issue that Pansy Wong is trying to amend. We will not support her amendment because we do not believe it is the right mechanism for what she is trying to achieve.

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Hon RUTH DYSON (Minister for ACC) : I would like to take a brief call on Part 1 in order to specifically address an amendment raised by Pansy Wong. I want to address it specifically because I think that her intention is very genuine and I understand where she is headed with her amendment. I regret that I am not able to support it, for very similar reasons to those that Judy Turner from United Future has outlined.

I think the process that the Health Committee, and the warring parts of our acupuncturist sector, went through has made some progress, in terms of ensuring that when we fund services through the Accident Compensation Corporation (ACC) or the health system we can have some quality assurance. That is our primary consideration. We will not put taxpayers' money provided through any system into a health service that we do not have some confidence in, so we have to have that standard. We also wanted to make sure that people had better choice in the type of acupuncture services that they were entitled to receive. The committee put a huge amount of effort into the issue of acupuncture. From the comments that I have heard back, it seemed to be the No. 1 issue. The progress that we have made in that area is, I believe, the right step at the moment. That does not rule out anything in the future, but I think we should just wait and see how far that progress enables us to go.

I also draw the attention of Pansy Wong and the rest of the Committee to clause 43, which outlines the procedure for defining and changing future health providers. That is where the accident compensation system has finally come entirely into line with the health system through the recently passed Health Practitioners Competence Assurance Act. That is the way that we should progress, so that regardless of the system that patients or claimants use to access health services, we can be assured of quality services.

It is with some regret that I do not feel able to recommend to my colleagues that we support Pansy Wong's amendment. I think she has done it with a lot of understanding of the situation that acupuncture—

Sandra Goudie: What about the failure to identify cost issues?

Hon RUTH DYSON: There is some noise coming from the other side of the House. It may be interference in the speaker system. Although I think that Pansy Wong has prepared the amendment with a genuine intention, I cannot support it at the moment. I hope she is able to support the process and encourage her colleagues in the wider acupuncture sector to use the processes available through the health legislation in order to progress their access to more claimant support.

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Dr PAUL HUTCHISON (National—Port Waikato) :

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Firstly, I would like to focus on the amendment of my excellent colleague Pansy Wong. I appreciate the Minister in the chair, Ruth Dyson, commenting on her amendment, but I really think that the Minister's explanation was insufficient. After all, the definition that has been arrived at in this bill is extraordinarily arbitrary in many respects. The definition in clause 3(1) states: "acupuncturist means—(a) a member of the New Zealand Register of Acupuncturists Incorporated; or (b) a member of the New Zealand Acupuncture Standards Authority Incorporated who—(i) is a qualified health professional ...".

Clearly, the practice of acupuncture in New Zealand has evolved over several decades, and that definition excludes a significant number of people who have carried out acupuncture in good faith over time. I agree entirely that a definition or requirement of an acupuncturist in New Zealand must mean that the approval puts quality of provision foremost, and that the group's ability to carry out quality-assurance exercises, peer review, and continuous quality improvement is all-important.

It seems curious that after 5 years of a Labour Government, the Minister in the chair, Ruth Dyson, has been unable to facilitate the various acupuncture groups in New Zealand to get their act together and agree on those fundamental principles. I acknowledge that at the Health Committee there was almost an expectation that the committee could do it. But this is a Government that said it would hold itself accountable, and here it is clear that it has failed miserably once again.

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As I was saying, Pansy Wong's excellent amendment states that, thirdly, a very important group of acupuncturists in New Zealand should be given the opportunity to be defined as an acupuncturist under the bill. All she is asking is that the following provision be added after clause 3(1)(b): "(c) a member of any other entity that ACC, or a duly delegated authority, approves after due process subject to the Minister's final approval." Well, maybe the Minister is once again saying that the Minister cannot be accountable for it. She cannot trust her own judgment. I can understand that, particularly after this latest revelation.

But the vital thing about acupuncturists and their definition in the law is that they can demonstrate that what they are doing consistently treats patients effectively and has a scientific base behind it. I would like the Minister to take a call and assure the House, and acupuncturists in New Zealand, that she will be moving towards those standards.

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JUDITH COLLINS (National—Clevedon) :

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One of the concerns I have is about how the Minister came to decide on the two particular bodies that are to be the sole representatives of acupuncturists. It probably has not escaped the attention of members of the Committee that acupuncture was not invented in New Zealand. It was something that, I think, was brought to us from China at various stages. We have the particular bodies that were set up, and I think in particular of the group whose members are mostly doctors. The attitude was very much that they make up a very small group that does not have particular training organisations or anything else, but the members of that group seem to have the ear of this Government. As we have learnt from John Tamihere, this Government does have tentacles in all sorts of places, and some of them are incredibly unseemly. One of the things that Mr Tamihere told us was that there are friends whom the Government can rely on. I am very concerned that a group is being given the OK to OK people for acupuncture treatment, and also for accident compensation payments, because it is a very small group that obviously happens to have the ear of the Minister.

My colleague Pansy Wong has made a very sensible suggestion for an amendment to deal with the fact that the bodies that are being given credibility, in some way, for acupuncturists

are bodies that have set themselves up. They are not bodies that have been set up by this Parliament. They are bodies that this Parliament is now being asked to approve of, really, in terms of funding for accident compensation, yet they have no particular statutory authority, as I recall the situation. For instance, they are not like the New Zealand Law Society, which has statutory authority in relation to the legal profession. Nor are they like the Medical Council. They are just groups that have grown up ad hoc.

Why are we in this Parliament legislating to give those bodies special powers, when we have had no assurance or any reason to believe that they—those groups, or associations—will necessarily continue, or that their rules will necessarily be rules that we in Parliament think are appropriate? We actually have no authority over those groups in any way at the moment, other than to bring in new legislation. So, unless things have changed since the select committee days on this bill, that is the situation. Here we are, giving those people a seal of approval when we have absolutely no reason whatsoever to do that, because we have had nothing to do with their set-up, with how they run themselves, or with their ethics. We in this Committee are being asked to go along with a bill that gives those groups not quite a monopoly right—but together they have a monopoly right—over who can be acupuncturists. So unless the practitioners of acupuncture who have come here from China belong to one of those groups, they will suddenly be told that they cannot be called acupuncturists in terms of this legislation. Frankly, that seems to be ridiculous.

So I support Pansy Wong's suggestion that after the Minister's final approval, the Accident Compensation Corporation (ACC) or another delegated authority could in fact approve another entity, if any such entity should exist or come along in future to be approved. Just doing that would actually free up the Minister, and future Ministers and the ACC, to actually do the right thing, rather than to force current acupuncturists to have to belong to a group that they may have absolutely nothing in common with, other than the fact that they are acupuncturists. Acupuncturists may not agree with the way the two groups practise, with their ethics, with their rules, or with all sorts of things, like the fees they have to pay, but we are stating in this legislation that those two groups are the only two that we will ever look at. Well, why are we doing that? I really think that the Minister should look at the sensible suggestion from Pansy Wong, rather than just dismissing it out of hand because it did not come from the Government.

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HEATHER ROY (ACT) : I would like to take a short call. Before I get on to asking the Minister for ACC some questions, now that we do have her in the chair, I would like to say that I will be supporting Pansy Wong's amendment. Given that the acupuncture groups are not covered by the Health Practitioners Competence Assurance Act, I think Judith Collins is quite right to ask why only two groups should have approval, when there may well be other groups out there that should be entitled to work, as long as they meet the required standard. In the absence of the groups being part of the Health Practitioners Competence Assurance Act at the moment—

Judy Turner: The Minister?

HEATHER ROY: —yes, the Minister—then they should be. So I will be supporting that amendment, on behalf of ACT.

Judy Turner: It's not her job.

HEATHER ROY: Well, that is why we have the amendment—so that it will be her job.

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SUE KEDGLEY (Green) : I rise briefly in response to the debate that has emerged over the issue of acupuncturists and Pansy Wong's amendment. It did seem to the Greens a very odd thing that, when we were in the middle of dealing with an accident compensation bill on

injury prevention, rehabilitation, and compensation, suddenly a completely new definition of “acupuncturist” was introduced. It seemed to us to be quite a bizarre way of amending that definition. As the members of the Health Committee will know, the Green Party opposed it because we felt that it was being done in a rather odd and arbitrary way. It seemed odd that the Health Committee had to listen to all those acupuncturists, many of whom were in great contention with each other, and to try to work out whether this particular group, or any other group, should be included in what is now a new definition of “acupuncturist”.

As we were outvoted, and as the new and rather arbitrary definition is now in the legislation, the Green Party will be supporting Pansy Wong’s amendment, because it seems to us that it is quite arbitrary to recognise just two particular groups. I am not quite sure why we should do that, when there are several other groups seeking recognition. I know that some of the Chinese acupuncture groups have been trying for a very long time to get recognition. Some of their members are from China, and they probably have much more extensive qualifications, practice, and experience in acupuncture than many New Zealand - trained acupuncturists. It seems odd to us that we are recognising one particular group in this legislation. A lot of questions were asked in the Health Committee about why we were singling out that group, and amending the entire definition of “acupuncturist” in the middle of consideration of the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3), and why we were giving favour to one group and excluding other groups.

I regret that the proposed amendment has been presented so late. I would have liked to have much greater consultation on it with members of the acupuncture profession. But, in general, because of the arbitrary nature of the new definition that has been parachuted into this Injury Prevention, Rehabilitation, and Compensation Bill (No 3), it seems to us that it would be preferable to have Pansy Wong’s amendment in place, rather than have the Health Committee try to define, in the middle of consideration of an accident compensation bill, which acupuncture groups should be eligible to come under the new definition of “acupuncturist”, and which should be excluded. Quite frankly, we in the Health Committee did not really have that sort of expertise and understanding. It was all so arbitrary, and this amendment does seem to us a preferable process. For this reason we will be supporting the amendment.

STEVE CHADWICK (Labour—Rotorua): I move, *That the question be now put.*

- Motion agreed to.

The question was put that the following amendment in the name of Pansy Wong to clause 3 be agreed to: to insert, after paragraph (b) of the definition of acupuncturist, the following new paragraph:

(c) a member of any other entity that ACC, or a duly delegated authority, approves after due process subject to the Minister’s final approval.

A party vote was called for on the question, *That the amendment be agreed to.*

Ayes 57 New Zealand National 26; New Zealand First 13; ACT New Zealand 9; Green Party 9.

Noes 61 New Zealand Labour 51; United Future 8; Progressive 2.

- Amendment not agreed to.

5. Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) — Third Reading, 5 May 2005

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JUDY TURNER (Deputy Leader—United Future) :

.....
I mention Pansy Wong from National, who sought to rectify the concerns of traditional Chinese acupuncturists. Although United Future did not support her amendment, we did agree with her concerns. However, we did not agree with the legal mechanism that she was suggesting. I have since given the issue some ongoing consideration, in terms of the Minister's assurances that acupuncturists are on the verge of reaching an agreement that will see them become registered under the Health Practitioners Competence Assurance Act. If those assurances are not realised, then I feel the Minister of Health, under the Health Practitioners Competence Assurance Act—not under this accident compensation bill, which has quite a different intention—should be able to identify a profession such as acupuncturists that has worked extremely hard to become registered under the legislation, but has often been held up by the uncooperative, possibly even vexatious, actions of smaller groups that want to claim the status of acupuncturists. I think the Minister of Health could step in to that situation, having identified that that group was being held back unnecessarily, and disallow the vexatious groups, so that the group could move forward. Quite honestly, if the Minister is wrong and acupuncturists are not able to sort that matter out in a very short time, I would encourage her—the Minister of Health, not the Minister for ACC as Pansy Wong was suggesting in her amendment—to step in under the Health Practitioners Competence Assurance Act, act as an advocate, and make some decisions on behalf of a group that has gone through the kinds of trials and tribulations that acupuncturists certainly have.

.....
SUE KEDGLEY (Green) :

.....
Let me return to the subject of acupuncture. At least we have been having, during the debate on this bill, a serious discussion about acupuncture. It is interesting that the World Health Organization recognises acupuncture as a successful treatment for about 40 different medical conditions, yet in New Zealand it is not properly recognised. It does not have statutory recognition and regulation under the Health Practitioners Competence Assurance Act. That is extraordinary. I heard Judy Turner from United Future say that if acupuncturists cannot get recognition soon, the Minister should consider intervening. But, frankly, what we ought to have done, and what the Green Party sought to do, was to get acupuncturists regulated under the Health Practitioners Competence Assurance Act. Yes, there were disputes within the acupuncture profession. So, too, were there disputes within the osteopathy profession, but osteopaths were regulated under the Health Practitioners Competence Assurance Act, and a mechanism was set up to sort out their differences. The very same thing should have happened with regard to acupuncturists, and it did not.

The Greens were very concerned about the rather odd way that acupuncture was being redefined in the middle of the debate on an accident compensation bill and that that could have had the effect of further delaying the desire of acupuncturists to become regulated, to be given statutory recognition, and to have a scope of practice—that it could, in fact, have resulted in two scopes of practice. However, I am delighted that the chair of the Health Committee, Steve Chadwick, whom I praise for her chairing when the committee was considering this bill, has assured me that acupuncturists are close to resolving the disputes that have plagued their profession—disputes that, I say, appalled the Health Committee. We were incredulous that such deep divisions were apparent in a profession that should be working together. Acupuncture is, in our view, a wonderful form of treatment, and we would like to see it recognised. We are delighted that, apparently, acupuncturists are coming to

some consensus and that they will finally be able to get one scope of practice and be recognised under the Health Practitioners Competence Assurance Act. That is one positive aspect that has emerged from the bill, when during the select committee process it seemed to be something that was going backwards, rather than forwards. We are very pleased about that.

.....
JUDITH COLLINS (National—Clevedon) :

.....
Despite what Mrs Chadwick says, we do not believe that things will all be fine and happy in the land of acupuncture. It has shown no signs of being fine and happy before, and we do not necessarily believe that that will happen now. And if it is all fine and happy, why not allow the other organisations to be in this bill? Why have in this bill only two organisations that acupuncturists can belong to? Acupuncturists do not have the ability to argue about it; they have to belong to those organisations. Yet those organisations are set up as private organisations, and have no statutory authority except under this bill. That is ridiculous. Pansy Wong put up a very good amendment, but the Government talked to Mrs Turner and she did as she was told, so we could not have the amendment.

.....

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Sent by: [redacted]@acc.co.nz

To: <David_StGeorge@moh.govt.nz>,
cc:
bcc:

24/02/2010 01:02 p.m.

Subject: RE: Acupuncture in NZ

Thank you David for your email and the excerpt from Hansard, both of which I read with interest. I have had no previous exposure to the field acupuncture or CAM; in England I was a Commissioner in the (no doubt) equally murky world of Continuing Healthcare.

That separate factions exist is probably of little surprise; however the way that these divisions have potentially been deepened through the legislation governing ACC is. [redacted]

The parliamentary debate is now somewhat old and wonder what the current state of play is, and whether there has been any movement at all. I also understand the process of registration under the HPCAA has stuttered and stalled. I am not sure whether there is a known completion date for this formal recognition.

I would be very keen to meet up to discuss these and related topics. What availability do you have?

Kind regards



[redacted] Programme Manager, ACC

Tel [redacted]
ACC / Health Purchasing & Provider Relationships / 81-83 Molesworth Street
PO Box 242 / Wellington 6140 / New Zealand / www.acc.co.nz

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2

Sent by: [redacted]@acc.co.nz>

06/08/2010 08:37 a.m.

To <David_StGeorge@moh.govt.nz>
cc
Subject Acupuncturist Peer Reviewer

Good morning David

In the next few months ACC will auditing 10 acupuncture practitioners. This is part of the usual cycle of provider clinical audits. I have been approached by the project owner to identify an external independent peer reviewer. Their role will be to review a sample of the randomly chosen practitioner's ACC clients' clinical notes against the quality requirements as defined in ACC's Treatment Provider Handbook.

The auditor would need to demonstrate they have a high standard of practice and note keeping, be respected by their peers, conversant with a range of practice, and ideally would have some experience as an educator in the discipline.

Although the name of the auditor should remain anonymous, given the current environment in the sector I wonder if you would be able to nominate one or two candidates who may be acceptable to both NZASA and NZRA?

[redacted]

 Programme Manager, ACC
Acupuncture, Chiropractic, Community Nursing, Optometry,
Orthotics, Hand Therapy, Occupational Therapy, Osteopathy,
Physiotherapy, Podiatry & Speech and Language Therapy

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From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]
Sent: Friday, 6 August 2010 09:55
To: [REDACTED]
Subject: Re: Acupuncturist Peer Reviewer

[REDACTED]

I'm afraid that I don't know enough about the world of acupuncturists to make a recommendation about individual practitioners. [REDACTED]

However, you could try something [REDACTED] for NZ - ask NZASA and NZRA to nominate one auditor each, and the two of them could form a panel to review the 10 practitioners' records.

Regards,

David

Dr David St George
Chief Advisor - Integrative Care
Population Health Directorate
Ministry of Health
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mailto:David_StGeorge@moh.govt.nz

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[REDACTED]@acc.co.nz>

06/08/2010 10:15 a.m.

To <David_StGeorge@moh.govt.nz>
cc
Subject RE: Acupuncturist Peer Reviewer

Not to worry, David. I did not expect you to produce much but thought it worth asking. I had already considered your [REDACTED] idea and suggested it to the auditor but to no avail.

It looks as if I will have to put it out for consultation.

Have a good weekend
[REDACTED]

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From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]
Sent: Friday, 6 August 2010 11:04
To: [REDACTED]
Subject: RE: Acupuncturist Peer Reviewer

[REDACTED]

ACC (in legislation) has relied on NZASA and NZRA to determine professional standards for acupuncturists (including determining the content of the ACC acupuncture treatment profiles), [REDACTED]. It is pretty mainstream to involve professional standards bodies in clinical audit processes. The only [REDACTED] bit is getting both particular organisations to work together.

Regards,

David

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Sent by: [REDACTED]@acc.co.nz

06/08/2010 03:07 p.m.

To: <David_StGeorge@moh.govt.nz>,
cc:
bcc:

Subject: RE: Acupuncturist Peer Reviewer

The usual processes would have been to approach the regulatory board and ask their advice but as there are two voluntary bodies with different standards this is becomes a little more difficult.

I'll let you know who we decide to use.
Have a good weekend

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3

From: [REDACTED]@acc.co.nz>
To: <David_StGeorge@moh.govt.nz>
Date: 16/06/2011 08:50 a.m.
Subject: Acupuncture

Hello David

I hope I find you well. Following another shuffle of the ACC pack I have moved on from my previous role and am now in [REDACTED]. I have been asked to consider the acupuncture's fit within the ACC claims management strategy and make some recommendations on how best to purchase it. ACC has to be mindful of the wider political scene and external factors which may affect its decision making.

I remember from your very interesting talk at the NZASA and NZRA meetings last year you mentioned a potential bilateral partnership between Auckland University School of Medical & Health Sciences and a university in China with the possibility of joint research and the possibility of a TCM research centre based in Auckland. Has there been any progress on this?

Also, where is the Ministry with the HPCA Act applications? I've seen the submissions but am unaware of how the applications are progressing.

With kind regards

[REDACTED]



Tel: [REDACTED] ACC
ACC / 81-83 Molesworth Street
PO Box 242 / Wellington 6140 / New Zealand / www.acc.co.nz

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Sent by:
David St
George/MOH

To: [REDACTED]@acc.co.nz>
cc:
bcc:

16/06/2011
03:37 p.m.

Subject:Re: Acupuncture

Hi [REDACTED]

All is well here - particularly because I have just come back from 3 weeks overseas - one week in Japan to find out about Japanese traditional medicine; and two weeks' holiday in the UK. The MoH has been going through the third restructuring since I joined the organisation (4 years ago) but it is at last beginning to settle down.

With regard to your queries, there hasn't been much progress on the University of Auckland front. The Dean has to visit China about this, but this visit hasn't happened yet. However, they are only interested in Chinese herbal medicine at this stage, not acupuncture.

As for the HPCA Act application from the traditional Chinese medicine profession, this has completed the initial "independent panel" assessment, which concluded that it meets the criteria for statutory regulation. The next phase is a wider public consultation on this, which should be kicked off within the next couple of weeks. So, it is a slow process.....

Related to all of this is the links I have been developing with China's State Administration of Traditional Chinese Medicine (SATCM). A delegation visited here a year ago, and I made a return visit to Beijing last November. On Tuesday this week, a higher level delegation came to Wellington, led by China's Vice Minister of Health, who is also CEO of SATCM. The delegation met with Associate Minister Jonathan Coleman and they agreed to stronger relations between the two Government departments (SATCM and MoH), principally to foster research and education/training in TCM in NZ.

Kind regards,

David

Dr David St George
Chief Advisor - Integrative Care
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4

From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]
Sent: Tuesday, 19 July 2011 12:34
To: [REDACTED]
Cc: [REDACTED] z
Subject: Fw: ACC Claim Number [REDACTED] - Addendum

[REDACTED]

Further to my earlier email (below) I have attached a copy of the Ernst et al article that ACC used in defence of its decision over ACC Claim Number [REDACTED] and a response to this article, published in the Journal of Chinese Medicine.

This exchange emphasises the importance of not quoting just one article from the literature, particularly when it comes from Ernst's department and when it is interpreted by people who are unfamiliar with the acupuncture research literature. [REDACTED]

Kind regards,

David

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----- Forwarded by David St George/MOH on 19/07/2011 12:24 p.m. -----

From: David St George/MOH
To: [REDACTED]
Cc: [REDACTED]
Date: 13/07/2011 09:33 a.m.
Subject: Fw: ACC Claim Number 82174351

[REDACTED]

I was recently approached by [REDACTED] of the NZ Register of Acupuncturists (NZRA), to give my opinion about an ACC claims case that had been reviewed and turned down by ACC for further acupuncture treatment. The person in question has had long-standing back problems and ACC has already funded a number of acupuncture treatments (amongst other interventions). However, earlier this year ACC questioned the continuing therapeutic benefit of this (after 139 acupuncture treatments) and has declined funding for further acupuncture treatments. The client has asked for a review of the decision (because of the considerable benefit he gets from acupuncture), and has requested NZRA's support. NZRA in turn asked for my advice about some of the things said by ACC and its medical assessor in the review papers.

Below is the opinion that I have given to [REDACTED]. My concern is not about the clinical decision itself in this individual case; i.e., as to whether or not acupuncture treatment should continue to be funded in this particular case. It is, rather, about the way that apparently simplistic and biased views of acupuncture, and of the published acupuncture research literature, appear to have been used to considerably diminish the perceived therapeutic value of acupuncture. The comments in question appear to be made by people without expertise in traditional acupuncture, and my conclusion is that ACC should have sought an independent clinical assessment by an expert in traditional acupuncture. Traditional acupuncture (as opposed to Western acupuncture) does far more than offer short-term pain relief, which is why an expert view should have been sought about this particular case and about whether there is a continuing role for traditional acupuncture in this very complex long-standing situation.

I thought I should pass a copy of my email onto you, not just because of the concerns about ACC's handling of this particular case, but because I hear through other quarters that there is a growing negative attitude towards acupuncture within ACC, allegedly based on "evidence" but no doubt arising from the same sort of biases, [REDACTED] and misinterpretations - and no doubt without the "level playing field" that I mention towards the end of my email below.

The Ministry of Health is currently considering whether to bring Traditional Chinese Medicine into statutory regulation (which Australia is already doing next year). An independent panel has already concluded that the profession meets NZ's criteria for statutory regulation, and a public consultation about bringing TCM into statutory regulation now under way, with a Ministerial decision about this probably some time in October. (see: <http://www.health.govt.nz/consultations/proposal-traditional-chinese-medicine-become-regulated>)

We have also recently hosted a delegation from China's State Administration of Traditional Chinese Medicine, led by China's Vice Minister of Health, to discuss bilateral cooperation over the development of TCM in New Zealand. High level and very positive discussions were held with Associate Minister of Health, Dr Jonathan Coleman, and we will now be moving towards the drafting and signing of a Memorandum of Understanding between the two government health agencies. In addition, I am currently in negotiation with Professor Iain Martin, Dean, Faculty of Medical and Health Sciences, University of Auckland, about establishing a TCM research programme in Auckland, which will be supported by the MoU between the New Zealand and Chinese Governments.

It would be ironic if the health sector starts to open the door to traditional Chinese acupuncture at a time when ACC tries to close the door.

Kind regards,

David

Dr David St George
Chief Advisor - Integrative Care
Clinical Leadership, Protection & Regulation
Ministry of Health
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mailto:David_StGeorge@moh.govt.nz

----- Forwarded by David St George/MOH on 13/07/2011 08:48 a.m. -----

From: David St George/MOH
To: [REDACTED]
Date: 11/07/2011 03:51 p.m.
Subject: ACC Claim Number [REDACTED]

[REDACTED]

Thank you for asking for my opinion about the way that ACC has viewed the role of acupuncture in the above ACC case. You may pass this email on to whomever you think is appropriate.

I will not comment on the question of whether or not acupuncture should be continued or discontinued in this particular case - that is a clinical judgement, to be made on an individual basis by clinical experts.

However, I am concerned about this case because of the way that ACC has evaluated the role of acupuncture. ACC has not sought an independent clinical assessment of the case by an expert in traditional acupuncture. Instead, there has been a heavy reliance upon only one journal article (and accompanying editorial), and on comments made by a medical assessor which appear to suggest a bias against acupuncture, and which appear to have been added as an "afterthought".

Journal Article

The article quoted by ACC is: "*Acupuncture: Does it alleviate pain and are there serious risks? A review of reviews.*" by E Ernst, Myeong Soo Lee and Tae-Young Choi, PAIN: 152 (2011) 755-764.

The first thing to say is that this article is being misinterpreted. It appears to be used to imply that there is "no evidence of efficacy" for acupuncture and pain relief.

The article is not a review of empirical research as such, but, rather, a review of reviews of empirical research, and it is largely driven by a "purist" view of research methodology (rather than a "purist" view of acupuncture). Its conclusions are on a very high level and are more about the state of research methodology and of reviews of acupuncture research as a whole, rather than about whether or not in truth there is real clinical efficacy for high quality acupuncture in particular clinical circumstances.

The review of reviews shows that there are wide-spread confusions and contradictions in acupuncture research. This is very much because many clinical trials *did show clinical efficacy*, whereas others didn't. If there were no clinical trials demonstrating clinical efficacy, then we would not be in this confused situation. On top of this there is variable quality of research methodology which they have tried to address through their more qualitative review of reviews, rather than through the more usual quantitative meta-analysis of actual clinical research trials and outcomes.

It is fair to say that the whole field of acupuncture research is littered with biases, misunderstandings, confused definitions and uncertainty as to what the phenomenon of "acupuncture" actually is that is being studied and what the best way is (from a methodology point of view) for demonstrating clinical efficacy. Unfortunately, the review of reviews appears to perpetuate some of the confusion. For example, there is no clear differentiation (in the review of reviews) between studies based on "acupuncture" that is done by a Western trained health practitioner, as an adjunct to Western medical practice and after only brief training (and generally using only one or two needles for a few minutes); versus "acupuncture" that is done by a professional acupuncturists after a 3-5 year full-time course plus many years of full-time acupuncture practice (and generally using up to 10 or more needles inserted for 30 minutes or more). The two approaches are very different, with very different clinical effects. They cannot be considered as the same phenomenon, but that is what the review of reviews has done.

Whether this particular journal article can be used to imply a lack of efficacy for acupuncture in the context of ACC Claim Number [REDACTED] rather doubtful. Indeed, we only need to look at the journal article itself to see how ACC has misinterpreted the article with regard to this particular case.

On page 761, in the second column under the table, the second paragraph starts with the statement:

"The majority of the (high-quality) reviews were positive for low back pain and osteoarthritis."

If this is so, then in the context of a case of lumbar back pain, why does ACC state (20 May 2011) that *"This information notes the evidence for efficacy of acupuncture for the treatment of pain is questionable"*? On the contrary, the review article gives positive support for the use of acupuncture in low back pain.

Complex Initial Medical Assessment

There are two versions of a medical assessment (dated 16 March 2011) in the file that I have been given - one with no comments about acupuncture; and one with two inserts about acupuncture. The inserts are as follows:

Page 4: *"I understand that he has only had short term relief from acupuncture previously"*

Page 13: *"There is no evidential and medical basis for recommending the funding of ongoing acupuncture treatments. This modality of treatment has only provided short term pain relief. There are no controlled studies that demonstrate that this is curative at this point in time in similar situations or that they lead to significantly increased and sustained physical and functional capacity or decrease the need for other medications"*

The fact that there are two versions the same report, both with the same date, raises procedural questions that only ACC can answer. I will focus on the second version of the report.

The 5th paragraph on page 13, which is immediately before the acupuncture insert, is about physiotherapy. It provides an interesting contrast with the comments about acupuncture. What is said about physiotherapy is:

"He appears to have had benefit from the physiotherapy based programme and I believe it is appropriate that he have funding for a further 3 month programme." (Earlier in the report it is stated that the client was not currently attending physiotherapy.)

In the paragraph after the acupuncture insert is the comment: *"I suggest that he be reviewed after participating in a further 3 months structured and supervised exercise programme."*

So, we have two contrasting views.

In the case of physiotherapy, the medical assessor expressed his belief that it is appropriate that the client has a further 3 month programme (of supervised exercise). This belief relates to an "appearance" of prior benefit from physiotherapy.

In the case of acupuncture, the client's and acupuncturist's views that he has improved under acupuncture is ignored, and a dogmatic statement is made about *"no evidential and medical basis for recommending the funding of ongoing acupuncture treatments"*. The medical assessor goes on to say that there are no controlled studies that demonstrate acupuncture be curative. So, where are the controlled studies that demonstrate supervised exercise to be curative?

Why has the medical assessor chosen to support physiotherapy (or more accurately, a structured and supervised exercise programme) and not acupuncture in this case at this point in time?

Opinion

In my opinion, ACC has shown unjustifiable bias against acupuncture, and does not appear to operate a "level playing field" when considering the respective roles of physiotherapy and acupuncture. In my view, an independent expert in traditional acupuncture should have been asked to assess the client.

Regards,

David

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Sent by: [redacted]@acc.co.nz

22/07/2011 04:16 p.m.

To:<David_StGeorge@moh.govt.nz>,
cc:
bcc:

Subject: RE: ACC Claim Number [redacted] Addendum

Dear David

Thank you for your feedback.

I have asked our research group to provide me with an analysis of the article that you have raised questions about.

I am not able to discuss the specifics of the case which you also reference. This is following the standard process when there is a dispute about a decision.

I would point however to the treatment profiles that were developed back in 2005 in conjunction with the NZRA when [redacted] was the Vice President. These profiles were peer reviewed by [redacted]

In the profiles the numbers of treatments are described as giving a consensus on acceptable treatment ranges. The numbers for example for Lumbar disc prolapse with radiculopathy are 16 - 22 with a trigger number of 24.

Regards



ACC

Tel [redacted] / Mobile [redacted] / Fax [redacted]
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PO Box 242 / Wellington 6011 / New Zealand / www.acc.co.nz

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5

From: [REDACTED]@acc.co.nz>
To: <David_StGeorge@moh.govt.nz>,
Date: 15/05/2013 11:46 a.m.
Subject: Acupuncture issue

Dear Dr St George,

I hope you don't mind my contacting you directly, but I was given your name by [REDACTED] following discussion with him earlier this morning.

I was really just wanting to alert you to a potential risk of harm issue which has been brought to our attention, but which would almost certainly affect a much wider group than simply ACC clients. If you are the right person to bring such matters to, I'd be more than happy to provide you with the necessary details relating to the clinic in question and the nature of our concerns.

Kindest regards,

[REDACTED]

[REDACTED], ACC

Tel [REDACTED] Ext [REDACTED] Mobile [REDACTED] / Fax [REDACTED]
ACC / Health Procurement Support/ Level 11, Vogel Centre, 19 Aitken Street
PO Box 242 / Wellington 6011/ New Zealand / www.acc.co.nz

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From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]
Sent: Wednesday, 15 May 2013 1:35 p.m.
To: [REDACTED]
Subject: Re: Acupuncture issue

Hi [REDACTED]

Yes, I am the right person for you to contact about acupuncture issues.

Kind regards,

David

Dr David St George
Chief Advisor - Integrative Care
Clinical Leadership, Protection & Regulation
Ministry of Health
Wellington
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From: [REDACTED]@acc.co.nz>
To: <David_StGeorge@moh.govt.nz>,
Date: 15/05/2013 02:24 p.m.
Subject: RE: Acupuncture issue

Hi David,

Thanks for getting back so quickly. It's probably best to give you some details in writing first, as it can be quite confusing discussing the involvement of the various practitioners without having the written word to refer to.

In a nutshell, ACC was in receipt of a complaint in November 2012, which was sent directly to the Investigations Department for consideration of potential fraud allegations. The complaint related to a provider in a [REDACTED] acupuncture clinic. Unfortunately, whilst the potential fraud issues were being deliberated, the clinical concerns that had also been raised in the complaint were not passed on to anyone else within the organisation until last Thursday, when the investigator spoke to the local Supplier Manager.

The clinical concern related to the allegation that, when taking her son in for treatment of [REDACTED] dirty needles were taken from a metal beaker containing blood-stained cotton balls, and used during treatment. Her son later went on to develop a significant infection requiring treatment over a number of years. It should be noted that this particular incident apparently dated back to 2007. Further, the complainant advised that she had conducted background checks of the provider in [REDACTED] and could find no evidence of him being qualified to provide such treatment.

We immediately arranged for the Supplier Manager to conduct an onsite visit on Monday 13th May, taking with her a Clinical Advisor (qualified physiotherapist and acupuncturist) and a [REDACTED] for translation purposes. Whilst initial discussions with another provider at the clinic suggested that all three practitioners always used disposable needles, later discussion with the accused provider clarified that the clinic had allegedly run out of needles for a 6 month period (not further specified) and therefore re-used needles during that time. They allege they always used the same needles for the same clients, though this would seem unlikely. When asked for their method of sterilisation, the Supplier Manager was told they would place used needles in a metal beaker, add a cotton ball that had been soaked in alcohol, and place the lid on the container.

Disposable needles were evident in the clinic at the time of the visit, though they had been advised of the pending visit on the Friday before and it was noted that only one sharps bin was present - located in main reception area - whilst the rooms had metal containers of used needles and metal containers of clean needles on each trolley. An autoclave was also seen and appeared to be in working order - this was said to be used to sterilise cupping equipment.

A third provider works at the clinic but was not present at the time of the visit. Both he and the other provider are registered with the NZRA. The accused provider does not appear to be registered. The [REDACTED]

██████████ also stated he had completed a background check and could find no evidence of him holding any medical qualifications at all.

Clearly, we will be looking to referring the matter to the NZRA as a risk of harm issue (although we cannot be certain of when the risk was present, whether it was purely during the stated 6 month period or longer, or whether the risk is still present). However, our concern beyond that process relates to management of the potential public health risk for any clients who may have received treatment during the period of re-using needles. It was stated that most clients seen at the clinic are treated for health related matters rather than ACC injuries (strokes, cancer, etc), so we're dealing with a wider pool than our own clients. Hence we felt the need to alert the MoH to these matters sooner rather than later and seek guidance as to what processes you might have to handle such matters - whether the MoH would undertake its own investigation or whether the issue of notification of clients is best left until after any formal investigation by the registration body?

Happy to discuss further as needed.

Kindest regards,

██████████

██████████, ACC
Tel ██████████ / Ext ██████████ / Mobile ██████████ / Fax ██████████
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-----Original Message-----

From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]

Sent: Mon 5/20/2013 14:52

To: [REDACTED]

Subject: RE: Acupuncture issue

[REDACTED]

Thanks for your email.

I happened to have a meeting with the President of NZRA [REDACTED] on Friday and during our conversation, I alerted her to a possible risk of harm referral from ACC. I said that there were three acupuncturists in the clinic, two of whom were NZRA members, but the acupuncturist of concern was not an NZRA member. [REDACTED] said that if the referral comes through to them, NZRA would certainly send someone to inspect the clinic, to ensure that practice there was in conformity with their standards. I therefore suggest that a referral to NZRA about the clinic is your first priority.

With regard to a more general question of which statutory authority might have responsibility to investigate, I have discussed this issue internally with key people. Unfortunately, this is a grey area.

Essentially, the issue comes under public health legislation, and it is a matter for local public health services to investigate, if a concern is raised. However, there are no regulations governing the safe piercing of the skin, and there is some variation in local practice.

Local authorities (LAs) are obliged to improve and protect public health within their districts, and some LAs have therefore introduced by-laws and licensing requirements for those who pierce the skin (including acupuncturists). However, some LAs have not introduced such by-laws, and it is unclear how they would respond if contacted. It is unclear to us whether [REDACTED] has such by-laws.

Nevertheless, the first point of contact from a public health perspective would be the Environmental Health Department of [REDACTED]:

[http://www.\[REDACTED\]](http://www.[REDACTED])

If they do not have by-laws, or otherwise feel that it isn't their responsibility, then the Public Health Unit in [REDACTED] would be the next point of contact. Their website is:

[http://www.\[REDACTED\]](http://www.[REDACTED])

Contact details are also on the MoH website:

<http://www.health.govt.nz/new-zealand-health-system/key-health-sector-organisations-and-people/public-health-units/public-health-unit-contacts>

It would then be up to the local Medical Officer of Health (in that unit) to decide whether an investigation is warranted.

I am not sure if this picture is clear or confusing for you! So please get in touch (including by telephone) if you want to discuss this further.

Kind regards,

David

Dr David St George
Chief Advisor - Integrative Care
Clinical Leadership, Protection & Regulation
Ministry of Health
Wellington
New Zealand

DDI: 04 496 2592
Mobile: 021 222 0804
Fax: 04 816 2191

<http://www.health.govt.nz>
mailto:David_StGeorge@moh.govt.nz

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Sent By: [REDACTED]@acc.co.nz> on 20/05/2013 2:58:16 p.m.
To: <David_StGeorge@moh.govt.nz>
Copy To:
Subject: RE: Acupuncture issue

Nope, that's a very helpful reply! I'm actually at home today, but should be back in the office tomorrow, so will try and touch base with you once I've passed on this information to our quorum to decide next steps - as you say, the first thing will be to notify the NZRA. Thanks so much for looking into this for me - as you say it's all quite a grey area, so it will be good to put a plan around this that we can refer to again, should the need arise again in the future.

Thanks again,
[REDACTED]

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6

From: [redacted]@acc.co.nz
To: "david_stgeorge@moh.govt.nz" <david_stgeorge@moh.govt.nz>
Date: 13/08/2015 10:10 a.m.
Subject: Acupuncture query

Hi David,

Firstly, it was good to catch up last week at the conference, though worrying to hear how folk are dropping out of the picture over there.

Secondly, [redacted] NZRA conference this coming weekend and was just wanting to get up to speed with the background / history. To that end, I'd re-read the following blurb from the NZASA site and wondered where things were at presently with the Ministry (and what your general thoughts were regarding the recognition / registration of acupuncturists)...?

HPCA Update June 2012

Submissions were called for by the Ministry of Health in July 2011 regarding the application for regulation of Chinese Medicine.

Thirty five (35) submissions were received by the Ministry, and these are currently being analysed by the MOH which will then make a recommendation to the Minister regarding the regulation of Chinese Medicine.

In November 2011 NZASA was advised that no decision about regulation would be made that year, and further information has been called for regarding blended authorities. The Minister has clearly stated that no new Boards/Councils will be established, and therefore Chinese Medicine must be blended into an existing HPCA registration Board or Council.

This means that a current HPCA Board/Council will have to agree to host Chinese Medicine. This agreement will form part of the advice given to the Minister of Health.

Once the Ministry has completed its processes, the final decision regarding regulation is in the hands of the Minister of Health, regardless of the advice and recommendation from the Ministry of Health team.

NZASA continues to liaise with the MOH and represent its members' interests. Updates are regularly provided to the membership.

Cheers,

[redacted]

	ACC	
	Tel: [redacted] / Mobile: [redacted] Ext: [redacted]	
	ACC Clinical Services Directorate / Justice Centre - Level 12 PO Box 242 / Wellington 6011 / New Zealand / www.acc.co.nz	
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From: David_StGeorge@moh.govt.nz [mailto:David_StGeorge@moh.govt.nz]

Sent: Thursday, 13 August 2015 10:34 a.m.

To: [REDACTED]

Subject: Re: Acupuncture query

Hi [REDACTED]

Health Workforce New Zealand (HWNZ) received two concurrent applications for Traditional Chinese Medicine (TCM) to come under the HPCA Act (one from NZRA, one from NZASA), and they have been treated as one application.

The application process was put on hold, along with several other applications, while the Act was reviewed in 2012. The application has been on hold ever since.

I understand that there are now moves afoot within HWNZ to pick up the progressing of at least some of these applications, subject to Ministerial approval. Any further information about this will have to come from HWNZ. If you need further information, I suggest that you contact Ruth Anderson, Group Manager, HWNZ, at Ruth_Anderson@moh.govt.nz.

Kind regards,

David

Dr David St George
Chief Advisor - Integrative Care
Clinical Leadership, Protection & Regulation
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From: [redacted]@acc.co.nz
To: "'David_StGeorge@moh.govt.nz'" <David_StGeorge@moh.govt.nz>,
Date: 13/08/2015 10:37 a.m.
Subject: RE: Acupuncture query

Thanks for that, David – much appreciated.

Will you be attending any of the NZRA conference, btw?



[redacted], ACC
Tel [redacted] / Mobile [redacted] Ext: [redacted]

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RE: Acupuncture query

**David St
George** to: [REDACTED]

13/08/2015
10:41 a.m.

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Details](#)

No, I won't be there. I have been to many over the years, but I currently have almost no involvement with traditional/complementary medicine, so it is best to minimise participation.

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