

# AAOM Members Making A Difference

*The AAOM recognizes the hard work and effort that the state organizations and individuals put into the development of practice acts and standards. In particular, we would like to acknowledge four AAOM members who have made great strides in the development of scope of practice language for Acupuncture and Oriental Medicine; they are Claudette Baker, Martin Herbkersman, Deborah Lincoln, and Glenn Wilcox. The following pieces were put together by the AAOM board of directors and describe the processes that took place in order to create these changes. We hope they inspire you to act locally and provide you with some insight into ways that you can effectively improve the professional status of Oriental Medicine.*

## Claudette Baker and Others Makes Legislative Breakthrough in Illinois

### *Independent Practice for Licensed Acupuncturists Illinois*

Claudette Baker, LAc, Dipl. Ac. & CH (NCCAOM) is a President Emeritus to the AAOM and is current President of the Illinois State Acupuncture Association (ISAA). She was a key player in passing Senate Bill 2254 that eliminated the physician referral requirements from the Illinois Acupuncture Practice Act.

Illinois acupuncturists are finally able to treat patients without a physician referral. On May 26, 2004, Senate Bill 2254 unanimously passed both houses of the Illinois Legislature and on August 23, the Governor signed the bill into law. "Because Illinois is one of the most medically conservative states, the passage of this bill is a watershed event for the country" according to Baker. Our bill passed with the full support of the Illinois State Medical Society (ISMS), the local branch of the American Medical Association.

### Background

**The Law:** Illinois had a physician referral clause however, most physicians did not understand what the practice of acupuncture was nor do they understand the related laws. In addition physicians have an understandable fear of liability when referring to acupuncturists given this legal scenario. Some physicians would refer but most did not. This upset the patients, who many times switched physicians in order to receive the care they desired. Illinois is involved in tort reform and this legislation gave the ISMS a way to accomplish some of this reform. The ISMS was happy to be

relieved of the unwelcome burden of additional liability and increased responsibility for their members. The bill is written so that physicians can refer if they choose while maintaining control of the case. This language was clearly in the best interest of all parties.

**The players:** The Illinois Acupuncture Federation (IAF) is an 'umbrella organization' of acupuncture groups in Illinois. Members include the Illinois State Acupuncture Association (ISAA), the Asian-American Acupuncture Association (AAAA), the Chicago Korean-American Acupuncture Association (CKAAA), and the Korean-American Acupuncture Association (KAAA). They joined forces with Pacific College of Oriental Medicine (PCOM) to push this bill through. This is a practical example of the profession and schools working together to create optimal professional conditions for practitioners.

**The process** Claudette Baker as President of the ISAA along with Dean Mouscher, LAc, Dipl. Ac. (NCCAOM), Executive Director of the IAF facilitated the process. In January 2004 Claudette decided to come out of 'retirement' to lead the ISAA in a new legislative initiative to include herbs within the acupuncture scope and secure independent practice in Illinois. Steve Morrill has worked as the ISAA lobbyist for the past 9 years. In 1997, Mr. Morrill was the lobbyist that finally led the ISAA to victory in our attempt to end the horrific situation in Illinois where performing acupuncture without an MD, DO or DC license was a Class IV felony, and where acupuncturists were being arrested for 'practicing medicine without a license'. All

of our attempts at passing legislation failed during the 13 years prior to hiring Mr. Morrill. Needless to say, we were ecstatic and nearly in shock to realize that we were finally successful, even though we had to compromise with the undesirable requirement of physician referral.

After review of state laws around the country, Claudette and Dean found that referral requirements were being eliminated based on the safety record of acupuncture. At least 18 states have removed the physician referral requirement or passed acupuncture practice laws without that requirement in the past 12 years including Alaska, Arizona, Arkansas, Connecticut, Georgia, Hawaii, Idaho, Iowa, Massachusetts, Maryland, Minnesota, New Hampshire, New York, North Carolina, Tennessee, Vermont, Virginia, and West Virginia – and soon – South Carolina. "This is the perfect time for independent standards of practice and scope throughout the rest of the country," said Claudette. "The bill is written so that physicians can also refer if they choose, while maintaining control of the case as a gate keeper. This language was in the best interest of all parties."

SB 2254 was the result of careful negotiations over the past two years by the ISAA/IAF with the Illinois State Medical Society (ISMS) resulting in an 'agreed bill.' SB 2254 enjoyed widespread support in the General Assembly, passing the House by a vote of 109-5-0, the Senate 55-0-0, the House Registration and Regulation Committee 12-0-0, and the Senate Licensed Activities Committee 6-0-0. There were no opponents.

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This legislation strikes a balance between current Illinois law and the national trend by allowing physicians to maintain management of the patient following referral. This is the perfect time to initiate independent standards of practice and scope for those states that are still unregulated. There now exists an undeniable precedent in the current laws.

**Message to fellow practitioners from Claudette:** "From my 20+ years of experience in running a successful practice, serving the acupuncture community on the state and national levels, and as a multiple-term president of the AAOM and the ISAA, I know that this legislation will be of tremendous benefit to patients, physicians and the acupuncture community. My hope is that this will encourage other state legislatures to adopt similar measures when considering new legislation for the practice of acupuncture in unlicensed states. I want to thank the AAOM for its invaluable support to Illinois over the past 10 years as I worked to help pass both the initial legislation regulating our profession in Illinois and this most current bill.

"Now is the time to become legislatively proactive to protect the practice of Oriental Medicine. If your state doesn't have a law, the only way is to change that is for practitioners and patients to join together and make it happen. At first, it seems overwhelming, and at times it is, however, there are very clear steps that an acupuncture association can take to get the process started and keep it going. It takes leadership, a few solid supporters to enroll the community in the legislative process and of course, an effective lobbyist.

"The AAOM has always been available to speak with our member associations and give them guidance through this process. An excellent way to meet with the folks that have passed bills throughout the country is to come to the AAOM annual conventions. I have been attending them for 20 years now and have always participated in one or two formal meetings each year where state association presidents discussed their particular issues and gave legislative reports. It has always been inspiring to see just how industrious and creative these folks have been. I have learned so much from them

and I made friendships that have lasted all of these years. We support each other with letters, phone calls, emails and appear to testify at hearings whenever there is a new or ongoing battle.

"If you have a law to practice acupuncture but not herbs, please consider initiating legislation as soon as possible. The writing has been on the walls for 10 years regarding the FDA's growing awareness and discomfort with the unregulated herbal industry in this country. The longer we have waited to pass new bills, the harder it has become to do so given the widespread misinformation in the news and the legislature about herbs and their safety. The ISMS would not allow herbs in our scope, but we haven't given up. We hope to nail this issue soon.

*"I want to thank the AAOM, NCCAOM, ACAOM and CCAOM for their support in our quest to pass this bill. We have a wonderful community that is maturing and becoming stronger every year. We have come such a long way and I am honored to be a part of this incredible profession."*

## Martin Herbkersman Puts Bill on the Governor's Desk in South Carolina! H3891 The Acupuncture Act of South Carolina

This bill was introduced in March of 2003 with 36 bipartisan cosponsors including the house majority and minority leaders. The bill sailed through the House with no issues. It was then sent to the Senate in May of 2003.

After the general assembly reconvened in January of 2004, the Senate did nothing to advance the bill until Martin Herbkersman L.Ac., Dipl Ac (NCCAOM) hired a lobbyist as an AAOM affiliate to advance the bill; after this the bill went through Senate committees easily. The Senate committee on medical affairs then removed the exemption for physician training from the bill. When the bill was presented on the floor, special interest groups proposed amendments that would restrict acupuncture practice and require referral to an MD for treatment that extends past 30 days.

Martin made the following compromise in order to keep the bill from being killed on the floor: As of now, the bill requires written notice to the patient

after 90 days of treatment stating that they may want to seek a medical diagnosis prior to continuing the treatment. The exception to this is if the patient was referred by a physician.

Another assault on the bill came from the chiropractors who wanted to be included with only 100-200 hours of courses. They retreated from that attempt after extensive discussions. As a result of their actions, the South Carolina chiropractors conceded to a higher ethical standard and affirmed the authority of the NCCAOM as entry level.

There were three further attempts to kill the bill by previous detractors. But, it was finally ratified 15 minutes before the end of the legislative session. The bill now sits on the Governor's desk. There are three things that can happen, (1) he can sign it making it law immediately, (2) he could not sign it then it becomes law in January of 2005, and (3) he could veto the bill. A veto would take the bill back to the house, but it appears as though there are enough votes for an override.

### What the law does:

1. Sets up an acupuncture committee underneath the medical board. This would reduce the \$1,000 a year fees that would be necessary to run a free-standing acupuncture board since there are about 30 practitioners in South Carolina.
2. It sets the entry-level standards to the level of the NCCAOM Diplomate to practice in South Carolina.
3. Finally – it puts teeth into the law. Anyone practicing without a license is guilty of a misdemeanor.

This is a great potential movement forward for South Carolina.

### Message to State Associations from Martin Herbkersman:

*"Use the AAOM as a resource for writing bills, letters or exerting any influence you feel may help you reach your objectives for scope and standards in your state."*

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## Michigan Closes in On Legislation

Deborah Lincoln RN MSN DIPL Acp and OM (NCCAOM) is President of the Michigan Association Acupuncture and Oriental Medicine. She also serves on the Board of Directors the AAOM. Her efforts have pushed Michigan into a professional climate for practitioners of Acupuncture and Oriental Medicine.

Michigan is finally close to joining the other 42 progressive states and passing legislation that will regulate Acupuncture and Oriental Medicine in our state. HB 5205, introduced by State Representative Randy Richardville, Republican Majority Floor Leader, is scheduled to be brought out of the Public Policy Health Committee this week.

The bill is supported by a majority of Legislators in both the State House and Senate, including the Michigan Osteopaths, Michigan Blue Cross and Blue Shield, Michigan Acupuncture Society; The Michigan Prosecutor's Association, health care agencies and providers, mental health providers, and established health care institutes, such as Sparrow and Ingham Medical Hospitals.

"HB 5205 will help define the ancient practice of acupuncture as a modern, progressive form of health care, and guarantee, by the State, that practitioners will be both qualified and accountable to the public", said Deborah Lincoln, President of Michigan Acupuncture Association and Oriental Medicine. Ms. Lincoln, a long time advocate for acupuncture regulation in Michigan, and dedicated practitioner for over 17 years, has spearheaded the struggle for regulation legislation for

over two decades.

"I'm excited at long last, to have reached the end of the tunnel, said President Lincoln, and to have the opportunity of finally passing legislation that supports solid ethical and educational standards in our industry". We look forward to a successful legislation session, and anticipate that HB5205 will be passed either at the end of the 2004 session or the beginning of the 2005 Legislative session.

The opposition to the bill is focused only on one small segment that has unsuccessfully attempted to stall the bill, and insert language requiring only 100 hours of training. Clearly, such language is unacceptable not only to those professionals who have dedicated careers based on thousands of hours as a practitioner, but to the Public as well.

Toward this end, the Michigan Association of Acupuncture and Oriental Medicine is in support of HB5205 that will establish NCCAOM, (National Certification Commission for Acupuncture and Oriental Medicine) standards for the practice of acupuncture in Michigan. The NCCAOM standards are currently utilized by 39 of 42 states to regulate the practice of acupuncture, and are recognized by well-established national and international organizations knowledgeable in our field.

The main purpose of HB5205 is to protect the people of Michigan from possible harm due to practitioners who have sub-standard training in Acupuncture and Oriental therapies. HB 5205 achieves this goal by defining and establishing regulation for Acupuncture and Oriental therapies and medicines. The

bill will create a self-sustaining regulatory board appropriate to cover Acupuncture practitioners. The bill will not affect the status of Medical and Osteopathic Doctors who practice Acupuncture. They will continue to be governed by existing and unchanged medical laws in place in the State of Michigan.

The American Association of Oriental Medicine has worked with our state organizations and the local organizations to provide an ethical and structured integration of Acupuncture as part of the mainstream of our state health care industry. Most of the work has been done by volunteers and acupuncturists professionals, often at great personal expense and time.

There is a significance difference between an individual who completes a few basic courses in acupuncture techniques and an individual who has undertaken years of study. The public deserves to know the difference between these individuals, and the most common way our society can determine levels of education is through educational titles and levels of licensure and regulation.

Sylvia McCollough, governmental lobbyist and advocate for the MAAOM, is confident of the bi-partisan support in the Michigan Legislature.

*"We have received only positive comments and support from the majority of Legislators" said Ms. McCullough.*

*"We anticipate that all the efforts and hard work put in by both the President of MAAOM, Deborah Lincoln, and her many colleagues will finally pay off with the passage of HB 5205".*

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## Glenn Wilcox Evolves OM Practice in New Mexico

On September 8, 2004 the New Mexico Board of Acupuncture and Oriental Medicine completed a rule hearing that resulted in the creation of a newly approved Prescriptive Authority Formulary and more clearly defined many other aspects of the Scope of Practice

rule. This rule will go into effect after it is filed in November and was the culmination of 16 years of visionary work to create a broad and fully integrated scope of practice that could serve as the foundation for the evolution of Oriental Medicine into the 21st century in America.

### History

1981 New Mexico... Glenn Wilcox was involved with nine others who, encouraged by Sensei Mashilo Nakazono, each contributed \$1,000.00 to hire lobbyist Peter Mallery to assist Senator

Tito Chavez in passing the initial law for the practice of acupuncture, signed by Governor Bruce King. New Mexico then went through a period of infighting between schools and styles of practice. As a result, Dr. Wilcox left the politics of the profession and focused on private practice for a number of years. In 1998, Dr. Wilcox was inspired to return to politics, and Drs. Glenn Wilcox, Angelique Cook and Lou Talento went to the state legislature without a lobbyist and changed the language of the Acupuncture Practice Act to define acupuncture as the practice of Oriental Medicine. Since M.D.s, D.O.s and D.C.s were unwilling to establish reasonable educational standards for the practice of acupuncture, Dr. Wilcox, Dr. Cook and Dr. Talento also successfully lobbied for legislation stating that other types of healthcare practitioners could do whatever was in their scope of practice, including needle insertion, but they couldn't call it acupuncture or bill it as such. The law was signed by Governor Bruce King. In 1993 they were joined by Dr. Jonas Skardis in their efforts. They went back to their sponsor, Senator Tito Chavez, and with the guidance of Peter Mallory they made additional changes to the scope of practice by creating a separate definition of Oriental Medicine that included "all techniques of Oriental Medicine both traditional and modern", and renamed the title Doctor of Oriental Medicine. This law was again signed by Governor Bruce King. As a result the state board examined standards of practice and in 1995 created a scope of practice that included procedures such as injection therapy with procaine and other substances. However, the pharmacy board felt that the New Mexico Doctors of Oriental Medicine did not have prescriptive authority for procaine or other prescription injectable substances. So, in 1997 Dr. Wilcox was joined by Dr. David Canzone and Jonas Skardis at the State Legislature. With the help of lobbyist Peter Mallory they were successful in creating the Extended Prescriptive Authority for DOMs. As a result DOMs who successfully completed additional board approved education could be certified to perform injection therapy using many natural substances and Sarapin, a legend local anesthetic drug. The bill was sponsored by Senator Michael Sanchez and signed into law by Governor Gary Johnson.

And, finally, in 2000, the same team created an Expanded Prescriptive Authority for DOMs. This authorized DOMs with additional education to prescribe or administer procaine, oxygen, epinephrine and bioidentical hormones in addition to the natural substances and Sarapin authorized by the Extended Prescriptive Authority. Those DOMs certified for the Expanded Prescriptive Authority are authorized to do injection therapy of all types including trigger point, neurotherapy, prolotherapy, intravenous therapy, chelation and detoxification therapy, oxidative medicine and hormone therapy.

As stated above, the increased scope of practice requires additional training. There are two optional advanced levels of practice authorized beyond the basic licensure as a Doctor of Oriental Medicine. These are the extended prescriptive authority and expanded prescriptive authority. The first level, extended prescriptive authority, requires successful completion of 60 hours of additional education beyond that required for basic licensure prior to certification. The second level, expanded prescriptive authority, requires successful completion of an additional 95 hours of education prior to certification. Nationally known teachers from the fields of pharmacology, biochemistry, injection therapy, chelation/detoxification therapy, oxidative and ultraviolet medicine, naturopathy, and medicine were brought in to provide the education necessary to develop the required competencies. In addition, it should be noted that they went outside to the profession to get national experts with impeccable reputations so that the quality of training was at a level equal to that of other professions who utilize these therapies. Whenever possible, the education would enable the DOM to sit for national board certification in the specialty. Once certified for the expanded prescriptive authority, a DOM may apply for a DEA number.

### Strategy

In order to secure each stage of legislative effort, Dr. Wilcox and his associates came up against the local medical society with whom they developed relationships based on respect and resolved all conflicts through negotiation. They created an alliance with the board of pharmacy to determine the education necessary for the expanded prescriptive authority.

The foundation of everything they did, whenever possible and whenever requested, was to treat legislators whenever and whenever needed. They made sure the best people possible went in and gave great treatments so that legislators and those close to them got results. Nothing in the work they did compares to this for creating a positive image with legislators which influences opinion and voting. The DOM treating the legislator(s) had to be someone who was very competent and not uneasy about treating on chairs, desks or the floor.

Dr. Wilcox and his associates had a powerful sponsor as well as the most respected lobbyist at the state capitol, both of whom were also very sympathetic to what they were doing. Their intention was very clear and focused – they were "relentless." Over the 16 years there were a half dozen primary people involved in getting the job done at the legislature. Of them, some came and went, some "got burned out". Glenn was the person who was there and was the primary lead in the legislative effort for the entire 16 years. At every phase of the effort this core group worked to ensure that they had the full support of the Oriental Medicine Association of New Mexico and the New Mexico Board of Acupuncture and Oriental Medicine.

Much of their success had to do with negotiating. There was no way they had the strength of the big players. But – they were respected as intelligent people with integrity, and were in it for the long haul. The legislators came to know who they were and that built trust. Dr. Wilcox comments,

*"Politics is about people interacting with people. As legislators get to know you and someone they know is hurting, and you help, this creates an amazing amount of good will. If they ask a question and you are honest and straightforward, that is something that is essential for building a reputation for integrity. Working in the political arena provides an opportunity to use the principles of Oriental Medicine to help heal society. It's all about qi."*

**For more information check out the website of the New Mexico Board of Acupuncture and Oriental Medicine at [www.rld.state.nm.us/b&c/acupuncture/](http://www.rld.state.nm.us/b&c/acupuncture/)**