



October 5, 2020

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: Michael Soracao

Re: CMS-1734-P (Specifically: Issues related to practice expense, work RVUs, conversion factor, and specialty-specific impacts of PFS proposals)

Dear Mr. Soracao:

On behalf of the members of the Acupuncture Society of New York (ASNY,) we appreciate the opportunity to comment on the proposed changes to the 2021 Physicians Fee Schedule (PFS.) ASNY is the largest state association member of the American Society of Acupuncturists (ASA) which represents thousands of Licensed Acupuncturists nationwide.

We support the CMS decision to cover acupuncture for chronic low back pain and anticipate that as evidence becomes more readily available that there will be an expansion of the reimbursement for acupuncture services. However, we vehemently disagree with the cross walking of acupuncture codes with the recent dry needling codes.

As published in the Federal Register listing the proposed rule changes, it states that the RVUs for the acupuncture codes were “based on a pair of crosswalks of two recently reviewed codes in the Dry Needling family.” It states further that “Due to the similar clinical nature of these services and their nearly identical work times, we believe that it is more accurate to propose crosswalking CPT codes 97810 through 97814 (for acupuncture) to the work RVUs of the Dry Needling codes...” This would be a mistake as it does not reflect the training or expertise involved to provide acupuncture by a licensed acupuncturist in any state.

CMS discusses in detail their RVU development process for new, revised and potentially misvalued codes for services that, according to your administration, takes into consideration the physician’s time and intensity. CMS goes on to further explain their RVU development with consideration of Practice Expenses in both facility and nonfacility settings. The formula for consideration is referenced in [75 FR 73328 through 73329](#) which discusses methodology and approaches that include survey data, building blocks, crosswalk to key reference or similar codes, and magnitude estimation.

We understand that the coverage of acupuncture is new to CMS. In determining its Relative Value Unit, we disagree with the notion that there is a similar clinical nature to acupuncture services versus what is described for dry needling. As the first set of acupuncture codes were presented in 2004, we feel that the coverage of acupuncture and determination of its value should include an in-depth look at the original codes and should not be considered in the “dry needling family” of codes that were just recently created. CMS seems to denote the difference in the published final decision memo guidelines covering acupuncture by stating that all other forms of acupuncture including dry needling would be non-covered by Medicare (2020.) In the same document, it acknowledges just some of the qualifications for providing acupuncture as auxiliary personnel which are not typical credentials held by those who have added dry needling to their repertoires.

### **Training and Expertise:**

While it takes at least three (3) years and at least 2100 combined didactic and clinical hours to study for a Masters in Acupuncture, with many in the profession holding doctorate degrees that require more than 4000 hours of study, dry needling often only encompasses less than thirty (30) hours of study. There is no accreditation for these programs, whereas, to be licensed to practice acupuncture in almost every state, one must have a degree from an ACAOM-accredited school and pass national certification exams. While we recognize the training and certifications of other professions *in the fields of their expertise*; however, with regards to acupuncture, we are the providers with far more training, clinical experience, and expertise to administer the service. To devalue a service based on the training of those who wield it only as a modality, is to devalue the profession and the practitioners who treat Medicare patients.

### **Practice Surveys:**

CMS states that it utilizes survey data as provided through the RUC process, however, acupuncturists were not surveyed for the determination of value for the two dry needling codes. Physical therapists both surveyed the practitioners in the field and presented their information with no input allowed from the acupuncture community, even though trigger point acupuncture (what is also called dry needling outside of our profession) is one technique that we use.

### **Practice Expenses:**

By and large, practitioners in the acupuncture profession are performing their services in nonfacility environments. Unlike other ancillary care providers who use dry needling as a technique and are often working in large facilities that Medicare covers (both in-patient hospital settings and large outpatient clinics,) many licensed acupuncturists are solo practitioners with the same practice expenses as many physicians, rent or mortgage, payroll expenses, supplies, accounting and other overhead that may be incurred. They study their craft for years and may also have exorbitant student loans to pay off upon coming out of school.

ASNY recognizes that, especially during the Covid-19 pandemic, and in the wake of a continued opioid epidemic in the US that acupuncture can play a pivotal role in treating people with chronic lower back pain. We also recognize that our skills and training will play a pivotal role in improved patient outcomes as the use of acupuncture expands within the current medical system. Again, what is merely a modality for other professionals with less training in acupuncture is **THE** industry service we are the experts at providing. We do not ask for special privileges. Rather we ask for the same consideration of surveying and allowing input from the providers in the community of expertise before a final decision is made to reduce the values of the codes.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Krystufek', with a stylized, flowing script.

Dr. Viktor Krystufek, DACM, L.Ac.  
ASNY President

A handwritten signature in black ink, appearing to read 'T. Lokshin', with a stylized, flowing script.

Dr. Timur Lokshin, DACM, L.Ac  
ASNY, Advocacy Committee Chair

A handwritten signature in black ink, appearing to read 'Kallie Guimond', with a stylized, flowing script.

Dr. Kallie Guimond, D.OM  
ASNY Consultant  
President, Health Policy Advocacy Institute