

**Acupuncturist, Ms B
Acupuncture Clinic**

**A Report by the
Health and Disability Commissioner**

(Case 18HDC00442)

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Executive summary

1. Ms A was receiving acupuncture treatment from Ms B at an acupuncture clinic, for a left arm and wrist injury. At her appointment on 2 March 2018, Ms A was also experiencing pain at the jian jing area on both sides, and shortness of breath.
2. Ms B told HDC that prior to treatment, she explained to Ms A verbally the treatment and risks, including that the location of the jian jing point is close to the lung's apex, and the possibility of a pneumothorax, as well as general precautions of acupuncture. This was not documented. Ms B acknowledged that Ms A did not sign a written consent form on this date.
3. Ms A told HDC that Ms B did not inform her that the needle placements would be near her lungs, that this could cause lung injury, and she did not describe the possible symptoms related to this.
4. Ms B inserted two 1 cun needles into both of Ms A's jian jing points at a posterior oblique angle. Ms B told HDC that she advised Ms A to stay still and to keep the same posture during needle insertion. Ms A recollected that the needles Ms B inserted felt "extremely deep". Both parties recalled Ms A expressing some pain when the needles were inserted. The needles were left inserted for approximately 30 minutes. Ms B then rotated the needles "within 180 degrees" prior to removal.
5. Ms A told HDC that when the needles came out, she experienced a sudden onset of right-sided chest pain and shortness of breath, while the acupuncture notes state that she began to experience a "stuffy" chest 10 minutes after the second adjustment, and slight chest pain. Ms B said that in response to this, she withdrew all needles immediately, and provided additional treatment.
6. At 2.30pm, the treatment ended. Ms B told HDC that Ms A felt that the symptoms had cleared after the additional treatment. However, Ms A reported feeling slightly better but still "very uncomfortable" at this time. Ms B documented in her notes that she advised Ms A to go home and rest, not to do any strenuous exercise or carry heavy things, to observe her breathing, and to contact her should she feel unwell.
7. Ms A said that after the appointment she felt unwell, and once she got home, she lay down as advised, as her left chest was in pain and her right chest was feeling numb. Ms A's husband took her to an accident and medical clinic and she was seen at approximately 9.25pm and referred to the Emergency Department (ED) at the public hospital. Ms A was subsequently diagnosed with bilateral apical pneumothoraces secondary to acupuncture.

Findings

8. Ms B's failure to provide Ms A with information that a reasonable consumer, in her circumstances, needed to make an informed choice or give informed consent was a breach of Right 6(2) of the Code of Health and Disability Services Consumers' Rights (the Code). Without this information, Ms A was not in a position to make an informed choice, and give

her informed consent to having acupuncture. Accordingly, Ms B also breached Right 7(1) of the Code.

9. Ms B did not take appropriate care, punctured both lungs of her patient, and failed to recognise the signs of a possible pneumothorax. Accordingly, Ms B failed to provide acupuncture services to Ms A with reasonable care and skill, and breached Right 4(1) of the Code.
10. The clinic was not found in breach of the Code, but other comment was made in relation to the clinic not having any formal policies and procedures regarding informed consent.

Recommendations

11. It was recommended that Ms B (a) perform an audit to identify whether consumers have received an information brochure and consent form, and have provided written consent prior to treatment, and report to HDC the results and any changes made as a result of the audit; and (b) undertake further training on acupuncture needling techniques, and provide HDC with evidence of having completed such training.
12. It was recommended that the clinic consider developing formal policies and procedures in relation to obtaining consent from consumers, and report to HDC on the outcome of its consideration.
13. It was recommended that the New Zealand Acupuncture Standards Authority Inc and Acupuncture New Zealand promulgate this case to their members as a learning opportunity.

Complaint and investigation

14. The Health and Disability Commissioner (HDC) received a complaint from Ms A about the services provided by Ms B at an acupuncture clinic. The following issues were identified for investigation:
 - *Whether Ms B provided Ms A with an appropriate standard of care in March 2018.*
 - *Whether the clinic provided Ms A with an appropriate standard of care in March 2018.*
15. The parties directly involved in the investigation were:

Ms A	Consumer/complainant
Ms B	Acupuncturist/provider
Acupuncture clinic	Provider
16. Further information was received from:

District Health Board (DHB)	
Ms C	Acupuncturist

17. Independent clinical advice was obtained from Mr Thomas Lin, an acupuncturist, and is included as Appendix A.

Information gathered during investigation

Background

18. Ms A, aged 33 years at the time of these events, was receiving acupuncture treatment from Ms B¹ at the clinic, for a left arm and wrist injury.
19. On 2 March 2018, Ms A's acupuncture notes document that her wrist pain had decreased, but she was experiencing pain at the jian jing² area on both sides, and shortness of breath. The notes also describe Ms A as "thin and wiry". This report discusses the information provided to Ms A prior to treatment, as well at the treatment itself.

Information provided to consumer before treatment

20. Ms B's notes state that Ms A's current condition included pain at the "jian jing" area on both sides, and shortness of breath. Jian jing is a pressure point located on either shoulder.
21. Ms B told HDC that she explained to Ms A that the location of the jian jing point is close to the lung's apex, and that there is a small possibility of pneumothorax.³ Ms B told HDC that before treatment started, Ms A was also informed of the general precautions of acupuncture. Ms B stated that she told Ms A about the risks verbally, which included bent needle, bleeding, bruising, and pneumothorax. Ms B said that she explained the procedure for the whole treatment, including the points used, treatment time, and possible risks involved, but did not document this.
22. Ms B said that Ms A agreed with the treatment plan before proceeding with the acupuncture treatment.
23. The clinic advised that it provides information about acupuncture treatment to all patients. It provides brochures such as "Acupuncture" (produced by NZASA and including an outline of the risk of pneumothorax), which are kept at the reception desk.
24. The clinic advised that it has a consent form, which outlines the possible side effects of acupuncture treatment, including pneumothorax. The practitioner is responsible for providing the consent form and explaining further details if necessary, and all patients are required to sign the consent form before treatment begins.

¹ Ms B has a current annual practising certificate from the New Zealand Acupuncture Standards Authority Inc (NZASA). [...]

² The jian jing area is a pressure point located on either shoulder.

³ A pneumothorax is the presence of air or gas in the cavity between the lungs and the chest wall, causing collapse of the lung.

25. There is nothing documented in Ms B's notes to indicate what was discussed with Ms A verbally about risks prior to treatment, in particular the possibility of pneumothorax, and nothing is documented to indicate whether Ms A saw the brochure on this date. Ms B acknowledged that Ms A did not sign a written consent form on this date.
26. Ms A told HDC that Ms B did not inform her that the needle placements would be near her lungs and that this could cause lung injury. Ms A also stated that Ms B never discussed what symptoms could be related to a lung injury.

Treatment of jian jing area

27. Ms B documented that she inserted two 1 cun⁴ needles into both of Ms A's jian jing points at a posterior oblique angle (45 degrees). Ms A recollected that the needles Ms B inserted felt "extremely deep", and that approximately 10 minutes after the needles were inserted, Ms B came back "to move each needle and try to insert them deeper". In response to my provisional decision, Ms B stated that she released the needle, and did not insert it deeper.
28. Ms B told HDC that she advised Ms A to stay still and to keep the same posture during needle insertion. Ms B said that when she inserted the needles, she checked with Ms A how she felt. Ms B recalls Ms A advising that she "felt a bit heavy and a little pain". On the other hand, Ms A reported that she told Ms B that it was "very painful".
29. The acupuncture notes state that the needles were left inserted for approximately 30 minutes. Ms B then rotated the needles "within 180 degrees" prior to removal. Ms A told HDC that when the needles came out, she experienced a sudden onset of right-sided chest pain and shortness of breath. However, the acupuncture notes state that Ms A began to experience a "stuffy" chest 10 minutes after the second adjustment (rotation of the needles), and slight chest pain. Ms B said that in response to this, she withdrew all needles immediately, massaged Ms A's abdomen, and applied further acupuncture needles to other areas.
30. Ms B noted that she was aware from previous treatments that Ms A had occasional shortness of breath and chest pain related to previous surgeries, and that Ms A's breathing issues were present prior to treatment on this date. Ms B also noted that some people experience "needle faint"⁵ during acupuncture treatment, which is more likely to occur when needling points close to the neck, such as the jian jing points.
31. At 2.30pm, the treatment ended. Ms B told HDC that Ms A felt that her stuffy chest and chest pain had cleared after the additional treatment, and she did not complain about any discomfort at this point. However, Ms A reported feeling slightly better after the additional treatment but still "very uncomfortable" at this time.

⁴ A cun is a measurement standard for acupuncture needles. A 1 cun needle is an acupuncture needle that is approximately 25–30mm in length excluding the handle.

⁵ Ms B explained that the symptoms of "needle faint" include nervousness, shortness of breath, a "stuffy chest", a fast heart rate, and occasionally fainting.

Subsequent events

32. Ms A recalled that following the treatment, Ms B advised her to lie down to recover. Ms B documented in her notes that she advised Ms A to go home and rest, not to do any strenuous exercise or carry heavy things, to observe her breathing, and to contact her should she feel unwell.
33. Ms A reported to HDC that after the appointment she felt “so unwell”, and once she got home, she lay down as advised, as her left chest was in pain and her right chest was feeling numb. Ms A’s husband took her to the accident and medical clinic, and she was seen at approximately 9.25pm and referred to the ED at the public hospital.
34. The clinical notes from the DHB show that Ms A was diagnosed with bilateral apical pneumothoraces⁶ secondary to acupuncture.

Further information

Accident and medical clinic

35. Clinical documentation from the accident and medical clinic notes that Ms A reported having had “acupuncture needles inserted deep into [her] upper back”, and that she had “felt deep pain over [her] upper back on insertion”. The notes state: “[P]atient says she has low body fat so needles went in deeper.” The notes also indicate that Ms A reported that soon after the needles had been inserted she started to feel chest pain and shortness of breath, but that “patient reassured by acupuncturist that it was part of the treatment and ... that it would resolve”.

DHB

36. The public hospital’s clinical notes show that Ms A’s weight on admission to hospital was 45kg, and her height was 162cm. Her BMI is documented at “below average (BMI 20)”.
37. The notes record that Ms A reported “immediately [having] strange painful and ‘air’ sensation around both lungs” following her acupuncture treatment.

Ms B

38. Ms B told HDC that in future she will ensure that each patient provides informed consent and understands the information in the consent form. She said that she understands the importance of ensuring that the written consent form is signed by all patients before treatment.
39. Ms B provided a review of her treatment from an acupuncturist colleague, Ms C. Ms C commented that needling in the jian jing area carries a substantial risk of inducing pneumothorax, and therefore the needle used should be no longer than 1 cun (25–30mm) at a 45 degree angle, and deep and/or perpendicular needling (90 degrees) should be avoided to reduce the risk of pneumothorax. Ms C concluded that “from the information provided regarding the treatment plan, precautions and procedure, practitioner [Ms B] has followed the standard procedure of caution”.

⁶ Pneumothorax to both lungs, related to the apex (top) of the lung.

The clinic

40. The clinic advised that it is improving its service. It stated that the practitioner needs to provide the consent form to each patient and make sure that the patient understands the information contained in the form, and the form must always be signed by the patient prior to treatment.

Responses to provisional decision

Ms B

41. Ms B was given an opportunity to comment on the provisional decision, and provided a response. She said that she felt very sorry about the pneumothoraces Ms A suffered. She understands the importance of informing patients appropriately, and that it is crucial to improve her skills to avoid any problems in future.
42. Ms B stated that she understands that informed consent was Ms A's right, and as the consent form was not signed and the information verbally provided was not documented, this failed to reach the standard of practice in the industry.
43. Ms B understands that body size is an important factor to be considered, and while she considers the technique used here is the safe standard for needling jian jing generally, she accepts that less deep insertion or more gentle needling techniques should be considered for people with a lower BMI.
44. Ms B stated that she had a lack of skill and experience to deal with a complication of pneumothorax. She stated that the relevant factors available to her — including Ms A's symptoms prior to treatment, her recollection that Ms A wanted to continue treatment after feeling pain and a heavy sensation in her chest, and Ms A's symptoms improving after the additional treatment given for her breathing and pain — confused her as to the possibility of a pneumothorax and taking further action. Ms B stated that she understands from this case that it is important to advise patients to seek medical assistance immediately if any potential risk occurs.

The clinic

45. The clinic was given an opportunity to comment on the provisional decision, and provided a response. It told HDC that it understands the need for formal policies and procedures regarding informed consent, and for practitioners to ensure that patients are informed of risks and treatment, and sign consent forms. It appreciates the recommendation made for future practice.

Ms A

46. Ms A was given an opportunity to comment on the "information gathered" section of the provisional report, and provided a response. She reiterated her concerns that she was not provided information by Ms B about the treatment and risks, particularly in relation to possible risks to the lung. Ms A also feels that Ms B has not been truthful. Ms A noted that had she known the risks, she would have gone to the hospital straight away rather than stay at home until late at night as she did. She said that she is still suffering from effects from the pneumothoraces.

Relevant standards

47. The New Zealand Acupuncture Standards Authority Inc. “Standards, Ethics and Safe Practice 2015” provides:

“Code of Safe Practice for Acupuncturists

Consent

Written consent is strongly recommended ... Consent should be based upon the consumer being given an explanation about the proposed treatment, the needling technique and the possible side effects and outcomes following acupuncture.

...

A: Recognise and comply with ‘Contraindications and Precautions’

...

2. Vulnerable Points That Require Skill & Care

...

c) Points over lung tissue unprotected by bone or cartilage e.g.

...

Jiangjing⁷ GB 21”

Opinion: Ms B — breach

48. On 2 March 2018, Ms B carried out acupuncture needling to Ms A’s pressure points on both sides of her shoulders (the jian jing area). It is not disputed that needling in this area can put a person at risk of a pneumothorax. I have concerns about the informed consent process carried out by Ms B prior to needling Ms A’s jian jing area, as well as Ms B’s care and skill in providing the treatment.

Information provided

49. Ms B and Ms A have provided different accounts about whether Ms A was given information about the risk of pneumothorax.
50. Ms B states that she explained to Ms A that the location of the jian jing point is close to the lung’s apex, and that there is a small possibility of pneumothorax.

⁷ Alternative spelling of jian jing.

51. Ms A told HDC that she was not informed that the needle placements were near her lungs and that this could cause a lung injury. Ms A also stated that Ms B never discussed what symptoms could be related to a lung injury.
52. Practitioners at the clinic are required to provide consumers with information about the treatment to be provided, and to obtain written consent prior to treatment. I would therefore expect the information provided to a consumer regarding the risk of pneumothorax to be documented by the provider. However, in this case, there is no such documentation. While the clinic's consent form outlines the possible side effects of acupuncture treatment, including pneumothorax, Ms A did not sign a consent form for her treatment, and Ms B's notes do not record any verbal information having been provided, or discussion about the risk of pneumothorax. In addition, nothing is documented to indicate that Ms A had seen a copy of the NZASA's "Acupuncture" brochure on this date.
53. I note that following her appointment with Ms B, Ms A lay down and did not seek medical advice for almost seven hours, despite experiencing gradually increasing pain and shortness of breath. I consider that these actions are consistent with Ms A's statement that she did not know of the risk of a pneumothorax.
54. Accordingly, based on the evidence available to me, I consider that it is more likely than not that Ms A was not informed about the risk of a pneumothorax, including that the placement of the needles would be close to her lungs, and the symptoms that could indicate a possible lung injury.
55. The NZASA's Standards provide that consent should be based upon the consumer being given an explanation about the proposed treatment, the needling technique, and the possible side effects and outcomes following acupuncture. Given that it was the first time Ms A had received treatment from Ms B in the jian jing area (acupuncture points specifically identified as requiring care and skill due to being over lung tissue unprotected by bone or cartilage), I consider the risk of pneumothorax, and the symptoms related to this risk, to be information that a reasonable consumer, in Ms A's circumstances, needed to be given to make an informed choice or give informed consent. I have found that this did not occur.
56. In my opinion, Ms B's failure to provide Ms A with information that a reasonable consumer, in her circumstances, needed to make an informed choice or give informed consent was a breach of Right 6(2) of the Code.⁸ Without this information, Ms A was not in a position to make an informed choice, and give her informed consent to having acupuncture. Accordingly, Ms B also breached Right 7(1) of the Code.⁹

⁸ Right 6(2) states: "Before making a choice or giving consent, every consumer has the right to the information that a reasonable consumer, in that consumer's circumstances, needs to make an informed choice or give informed consent."

⁹ Right 7(1) states: "Services may be provided to a consumer only if that consumer makes an informed choice and gives informed consent ..."

57. I am also critical that Ms B did not complete a written consent form for the treatment she performed on 2 March 2018. This is strongly recommended by the NZASA standards, and is a policy at the clinic.

Treatment provided

58. Ms B inserted two 1 cun needles into Ms A's jian jing points at 45 degree angles, and they remained in situ for approximately 30 minutes. Ms A reported to HDC that the needles inserted by Ms B felt "extremely deep", and that Ms B returned 10 minutes after insertion "to insert them deeper". Clinical documentation from the accident and medical clinic noted that Ms A reported that the acupuncture needles were inserted deep into her upper back and, as she has low body fat, the needles went deeper. Ms B's notes describe Ms A as "thin and wiry", and clinical notes from the DHB confirm that Ms A's BMI was below average (a height of 162cm and weight of 45kg) at the time of events.
59. The New Zealand Acupuncture Standards Authority's *Code of Safe Practice for Acupuncturists* recognises that the jian jing area are "vulnerable points that require skill and care", as these points are over lung tissue that is unprotected by bone or cartilage.
60. My independent acupuncturist advisor, Mr Thomas Lin, advised that accepted practice for needling jian jing points is puncturing perpendicularly 0.3–0.5 inch (approximately 7–13mm). He advised that "a pneumothorax can be prevented so long as we are careful and pay attention to the depth, direction and angle of the needle" when the jian jing region is being needled. Mr Lin further advised that "the depth of the needle depends on the figure of the person; whether he/she is fat or thin ... therefore we must decide the depth according to different cases". Mr Lin added that when needling such a point, "the inserted needle should seldom be retained because the respiration of the patient may cause the needle to go further inward automatically".
61. Mr Lin concluded that "[Ms B] must [take] precaution of pneumothorax in mind during needling in the jian jing points", and that Ms B's needling of Ms A's jian jing points represented a moderate to severe departure from accepted standards.
62. I note that Ms B's colleague, Ms C, considers that perpendicular insertion should be avoided when needling jian jing. On the other hand, my clinical advisor considers perpendicular needling to be the accepted practice for the jian jing points.
63. Ms C stated that when needling the jian jing point, the needling depth should be no longer than 1 cun. She notes that this point carries substantial risk of inducing pneumothorax, hence the short insertion depth is necessary to reduce this risk, and deep insertion should be avoided in the jian jing area.
64. While there are differing opinions on the acceptable length of insertion (i.e., 0.3–0.5 inch vs 1 cun needle), there is consensus that deep insertion should be avoided. In my view — relying on Mr Lin's advice, given the combined factors of the length of needle used with Ms A's body size and the prolonged retention of the needles, as well as Ms A's repeated

statements that the needling felt extremely deep — it seems more likely than not that Ms B inserted the needles too deep in Ms A’s jian jing points.

65. Ms C concluded that Ms B “followed the standard procedure of caution”. However, I accept my clinical advisor’s opinion over Ms B’s colleague. Unlike Ms C’s opinion, Mr Lin’s advice not only contemplates Ms B’s technique, but also the specific risks for a patient such as Ms A. It is clear that Ms A was thinner than the average patient, and therefore greater care was needed when considering how deep to needle. I acknowledge Ms A’s repeated statements that the needling felt extremely deep. I am critical that Ms B appears to lack insight that Ms A’s body size was an important factor to consider when deciding how deep to needle.
66. Furthermore, and consistent with my expert advice, I am critical that Ms B retained the needles in the jian jing points, as this also increased the risk of a pneumothorax occurring.
67. Mr Lin also considered that Ms B did not recognise that a pneumothorax may have occurred during her acupuncture, and the advice she provided did not follow the management of needle accidents for pneumothorax according to clinical procedures and practice. Mr Lin outlined the action that should be taken, such as referral for medical review, if signs of a pneumothorax occur. He also advised that it is important to note that the symptoms of a pneumothorax may not be present for several hours or days following acupuncture treatment. I acknowledge Ms B’s statements that she considered that Ms A’s symptoms were pre-existing or related to “needle faint”, and her advice to Ms A to observe her breathing and to contact Ms B if she felt unwell. However, I consider that Ms B should have been alert to the possibility of a pneumothorax following needling of the jian jing points, and I am critical that Ms B did not consider that Ms A’s symptoms could relate to a pneumothorax, and therefore did not provide relevant safety-netting advice accordingly.
68. Ms B did not take appropriate care, punctured both lungs of her patient, and failed to recognise the signs of a possible pneumothorax. Accordingly, I find that Ms B failed to provide acupuncture services to Ms A with reasonable care and skill, and breached Right 4(1) of the Code.¹⁰

Opinion: The clinic — other comment

69. As a healthcare provider, the clinic is responsible for providing services in accordance with the Code. This includes ensuring that it has relevant procedures in place for providing all the relevant information to patients on proposed treatments, and for obtaining their informed consent.
70. The clinic did have a written consent form and brochure available for consumers. Ms B has acknowledged that the consent form was not utilised for the treatment provided to Ms A

¹⁰ Right 4(1) states: “Every consumer has the right to have services provided with reasonable care and skill.”

on 2 March 2018. There is no evidence that Ms A had seen the brochure at this appointment.

71. I consider that the clinic had the resources available for Ms B, but Ms B did not use these in this instance. There is no doubt that Ms B was aware of the existence of these resources. I note also Mr Lin's advice that the practitioner must decide the depth according to each individual case, and exercise caution when needling points such as the jian jing. I consider that the treatment error that occurred in this case does not indicate broader systems or organisational issues at the clinic.
72. However, I note that the clinic did not have any formal policies and procedures regarding informed consent. I consider that it would be prudent for the clinic to consider developing such policies and procedures, to guide staff and ensure that consent is obtained.

Recommendations

73. I recommend that Ms B:
 - a) Perform an audit to identify whether consumers have received the brochure and the consent form, and have provided written consent prior to treatment. The audit should be performed over a period of three months from the date of this report. A documented report of the results of the audit, and any changes made as a result of the audit, should be provided to HDC within two weeks of the end of the three-month period.
 - b) Undertake further training on acupuncture needling techniques, and provide HDC with evidence of having completed such training, within six months of the date of this report.
74. I recommend that the clinic consider developing formal policies and procedures in relation to obtaining consent from consumers, and report to HDC the outcome of its consideration, within three months of the date of this report.
75. I recommend that the New Zealand Acupuncture Standards Authority Inc and Acupuncture New Zealand promulgate this case to their members as a learning opportunity.

Follow-up actions

76. A copy of this report with details identifying the parties removed, except the expert who advised on this case, will be sent to the New Zealand Acupuncture Standards Authority Inc, and it will be advised of Ms B's name.

77. A copy of this report with details identifying the parties removed, except the expert who advised on this case, will be sent to Acupuncture New Zealand.
78. A copy of this report with details identifying the parties removed, except the expert who advised on this case, will be placed on the Health and Disability Commissioner website, www.hdc.org.nz, for educational purposes.

Appendix A: Independent advice to the Commissioner

The following clinical advice was obtained from Mr Thomas Lin, an acupuncturist:

“[Date]

Health and Disability Commissioner
P O Box 1791
Auckland 1140

Dear Commissioner

Complaint: [Ms A]/[Ms B]

Ref: 18HDC00442

Code of conduct

I have been asked to provide an opinion to the Commissioner on case number 18HDC00442, and that I have read and agree to follow the Commissioner’s Guidelines for Independent Advisors.

My qualifications

MB (China), Vice President of New Zealand Register of Acupuncturists (Acupuncture NZ) Inc (AcNZ), 30 years’ experience (5 years in China and 25 years in NZ) of Acupuncture, Moxibustion, Acupressure and Chinese Herbalist.

Instructions from the Commissioner

On 2 March 2018, [Ms A] had her fourth acupuncture treatment with [Ms B] at [the clinic]. She had been receiving treatment for an injury to her left arm and wrist. At this appointment, she received treatment to the jian jing area on both sides for the first time.

[Ms B] inserted two acupuncture needles into [Ms A’s] jian jing points. [Ms A] recalled that when the needles were removed, she experienced right sided chest pain and shortness of breath. [Ms B] provided further massage and acupuncture treatment to relieve these symptoms. [Ms A] left the appointment at approximately 2.30pm.

[Ms A’s] condition deteriorated as the afternoon progressed. She was taken to the accident and medical clinic that evening, and referred to the Emergency Department at the public hospital. She was later diagnosed with bilateral apical Pneumothoraces secondary to acupuncture.

The facts and assumptions on which my opinion is based (I make all comments based on my knowledge and my experience.)

1. The appropriateness of needling [Ms A's] Jian Jing points to treat her arm and wrist.

Yes, it was appropriate to use the Jian Jing points to treat [Ms A's] arm and wrist pain.

What is the standard of care/accepted practice?

Jianjing (G 21):

Location: Midway between Dazhui (Du 14) and the acromion, at the highest point of the shoulder.

Indications: Pain and rigidity of the neck, pain in the shoulder and back, motor impairment of the arm, insufficient lactation, mastitis, scrofula, apoplexy, difficult labour.

If there has been a departure from the standard of care or accepted practice, how significant a departure (mild, moderate or severe) do you consider this to be?

It would appear that the main concerns are the lack of client informed consent. (Response by [Ms A]: *My response is some of her explanations are not fully true. The most important fact is, she never told me the place of needle is near my lungs and it may cause lung injury even though after I felt shortness of breath.*) There has been a departure from the standard of care or accepted practice when the Pneumothorax occurred while needling Jianjing; **In my opinion, it is the moderate to severe significant a departure from the standard.**

How would it be viewed by your peers?

One of peer view — 16 years' experience for Acupuncture and Chinese herbalist

(but the back time, 2 long needles went down from my back shoulder (as her medical opinion is that lots things are related and affect to my upper body and arm). She was putting the needle down and keep asking me 'do you feel it?' I said, yes I could, that was pain now. She then stopped the needles at the pain place (both sides). I could feel my back (inside) was very painful and I told her, she gave me the feedback was that my upper body and the muscles was very tired and hard, that's why. After about 10 minutes later, she came back to move each needle and try to insert them deeper to make the feeling of painful. This is her usually way of doing, which similar as last 3 treatments. So I didn't say anything about that pain again. However, after another about 10 minutes later, when the needles came out from my shoulder back, I could feel suddenly my right chest was extremely painful and which shorter my breath, and I told her this. She after said, that's ok, she could do some adjustment for me ...) [Ms B] didn't recognize it has been caused pneumothorax during her acupuncture in JiangJing points.

Then she ask me to lie on my chest, and she put 3 needles on my middle back near my vertebration and one on each side of my ankles.

[Ms B] didn't follow the management of needle accidents for Pneumothorax according to Clinical Procedures and Practice.

What she did was: ***Lifestyle Advice, 1 go home to have a rest, 2 no strenuous exercise, 3 Avoid carry heavy items, 4 observing and keep in contact.***

d. Recommendations for improvement that may help to prevent a similar occurrence in future.

Standards, Ethics and Safe Practice 2012, NZASA

Code of Safe Practice for Acupuncturists

A: Recognise and comply with 'Contraindications and Precautions' 2. Vulnerable Points That Require Skill & Care c) Points over lung tissue unprotected by bone or cartilage e.g. JIANGJING GB 21.

B. Be competent to carry out correct management of needle accidents, complications and reactions according to guidelines of safe practise:

Pneumothorax

If a pneumothorax is suspected (signs may include chest pain, tightness, dry cough, shortness of breath on exertion) a chest x-ray is essential to confirm or exclude. It is the responsibility of the practitioner to ensure that the consumer is referred for a chest x-ray and medical advice. It is important to note that the symptoms of a pneumothorax may not be present for several hours or days following acupuncture treatment.

Acupuncture NZ — Clinical Procedures and Practice February 2016

4 Management of needle accidents

Pneumothorax

— If a pneumothorax is suspected (signs may include chest pain, tightness, dry cough, shortness of breath on exertion) remove needles immediately and call 111 for an ambulance.

Symptoms of a pneumothorax may not become apparent until sometime after an acupuncture treatment, so if a patient call with any of the above symptoms advise them to immediately go to the Emergency Department of their nearest hospital.

Complete an Incident Report and forward to Acupuncture NZ.

Contact the patient later that day or the following day to check on their condition.

16 Injury to organs — signs, symptoms and possible causes

Lungs:

Signs and Symptoms: Pain, Cyanosis (lips, fingernails), Shock symptoms, Epileptic fit, Dyspnea, Restricted or decreased chest, movement on the affected side, Rapid, weak pulse, Pain occurs (often under the scapula) on the affected side.

Possible Causes: Too deep insertion at (GB21 Jianjing) and other thorax points. Insertion at an inappropriate angle. History of lung problems. Pneumothorax is the most common mechanical adverse event from incorrect needle depth that requires medical intervention. Onset of signs and symptoms may occur several hours after treatment.

2. The adequacy/appropriateness of the technique used by [Ms B] in relation to her treatment of [Ms A's] Jian Jing points.

What is the standard of care/accepted practice?

Method: Puncture perpendicularly 0.3–0.5 inch, Moxibustion is applicable.

Regional anatomy.

Vasculature: The transverse cervical artery and vein.

Innervation: The posterior branch of the supraclavicular nerve, the accessory nerve.

If there has been a departure from the standard of care or accepted practice, how significant a departure (mild, moderate or severe) do you consider this to be?

Treatment noted: jian jing (both), method, rotate horizontally within (1 cun needle, posterior oblique insertion, with even 180 degree after 30 mins of retention).

([Ms A's] response: She only have provided more needles on other places on my body, as she said helping me to adjust the feeling of shortness of breath. She never ever said the symptoms may relate to my lung!)

In my opinion: it is the moderate to severe significant a departure.

How would it be viewed by your peers?

One of peer view — 16 years' experience for Acupuncture and Chinese herbalist

When acupuncture is applied to the points above the supraclavicular fossa, or the suprasternal notch, or both sides of the 11th thoracic vertebra, the points above the 8th intercostal space on the middle auxiliary line and above the 6th intercostal space on the midclavicular line, because of improper direction, angle or depth of the needle, the pleura and lung are sometimes injured and the air enters the thoracic cavity to cause pneumothorax, when the condition takes place, the patient may suddenly feel chest oppression, chest pain, shortness of breath and even dyspnea. Also, there may be symptoms of shock, such as cyanosis, sweating, and drop of blood pressure. On

examination, it may be found that the intercostal space of the diseased side becomes wider. A hyper resonance may be got on thoracic percussion. The vesicular respiratory sound becomes weak or disappears. The trachea even is displaced to the healthy side. Further diagnosis of the condition is confirmed by chest X-ray examination. Once pneumothorax takes place, ask the patient to rest in a half recumbent posture. Mild cases can be managed according to their symptoms and signs. If the patient has cough, antitussive and antibiotics or antiphlogistics are to be given. For severe cases, emergency measures should be undertaken, such as sucking out air by thoracentesis, oxygen inhalation, anti-shock therapy, etc.

[Ms B] must keep precaution of Pneumothorax in mind during needling in JianJing points.

d. Recommendations for improvement that may help to prevent a similar occurrence in future.

For practitioner:

Prevention: pneumothorax can be prevented so long as we are careful and pay special attention to the depth, direction and angle of the needle when the aforementioned points are to be punctured. Depth of a needle depends on the figure of a person, whether he/she is fat or thin, and on his disease which is neglected sometimes, especially for the patient with pulmonary emphysema. The serious expansion of bronchial and alveolus of the lungs makes the lungs larger, sometimes twice or more than the normal ones so that the points normally far away from the lungs become closer. Take Tiantu for example. In normal condition, the needle can be inserted 1–1.5 can deep, while in a patient with emphysema, that depth may hurt the expanded lungs. The same is true of the depth of the points in the rib space and lateral thoracic vertebra of the back. Therefore, we must decide the depth according to different cases. In a word, the operator must be careful and concentrated, with the eyes and hands acting in coordination, keeping in mind all the time to prevent lungs injury. As to retention of the needle in the points mentioned above, especially in the points in the rib space, superior fossa of clavicle and the superior border of sternum, the inserted needle should seldom be retained because the respiration of the patient may cause the needle to go further inward automatically.

Also each client must have the fully informed consent with all kind of procedures.

References:

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That is my report to HDC for above complaint.

Yours sincerely

Thomas Lin
HDC independent Advisor”