NIH Collaboratory Rethinking Clinical Trials®

Health Care Systems Research Collaboratory

Ethics and Regulatory Core Consultation Call

Pragmatic Trial of Acupuncture for Chronic Low Back Pain in Older Adults (BackInAction)

Monday, December 9, 2019

Meeting Participants

Kate Alexander (Kaiser Northern California IRB), Joe Ali (Johns Hopkins), Andy Avins (Kaiser Northern California), Matthew Beyrouty (Institute for Family Health), Robin Boineau (NCCIH), Judith Carrithers (Advarra), Lynn DeBar (Kaiser Permanente Washington), Gabrielle Gunderson (Kaiser Permanente Washington), John Lantos (Children's Mercy Hospital), David Magnus (Stanford), MariJo Mencini (Duke), Cathy Meyers (NCCIH), Stephanie Morain (Baylor College of Medicine), Pearl O'Rourke (Retired), Tammy Reece (Duke), Karen Sherman (Kaiser Permanente Washington), Saskia Shuman (Institute for Family Health), Kayte Spector-Bagdady (University of Michigan), Jeremy Sugarman (Johns Hopkins), Wendy Weber (NCCIH), Liz Wing (Duke)

AGENDA ITEMS	**DISCUSSION** December 9, 2019	**ACTION ITEMS** December 9, 2019	**CURRENT STATUS** As of January 26, 2021
Overview of Demonstration Project	• **Overview:** The AcuOA pragmatic trial will evaluate the feasibility of acupuncture treatment compared with usual care for older adults with chronic low back pain. AcuOA will be a three-arm trial with patients recruited from four diverse health plans to represent the ethnic and racial composition of Medicare enrollees as well as the most common ways acupuncture is incorporated in insurance-based care for chronic pain. The acupuncture care delivery model varies across the four health systems (i.e., internal vs external delivery). • **Collaborative network partners:** ○ Kaiser Permanente Washington (KPWA), Seattle, WA	The Ethics and Regulatory Core need to examine whether acupuncturists are properly considered as engaged in research.	• The new trial name is BackInAction. • The IRB is in the process of determining whether acupuncturists are engaged in research; there is no resolution to date. Since the IRB has determined that this study is minimal risk, the team is in discussions with the IRB about whether all aspects of the consent process can be conducted by the research assistant at the time of the initial consent/screening call (possibly with an e-consent/mailing procedure for signatures), thereby obviating the need for the acupuncturists to obtain consent, which might then change the determination about whether they are engaged in research.

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	○ Kaiser Permanente Northern California (KPNC), Oakland, CA ○ Sutter Health (SH), Palo Alto, CA ○ Institute for Family Health (IFH), New York, NY • **NIH Institute:** National Center for Complementary and Integrative Health (NCCIH) • **Study design:** AcuOA is a three-arm trial of approximately 789-840 adults aged 65 years or older with chronic low back pain, comparing a standard 12-week course of acupuncture or an enhanced course of acupuncture (12-week standard course, plus 12-week maintenance course) to usual medical care for chronic low back pain. Patients will be randomized individually. At KPWA, KPNC, and SH, participants will be recruited through the EHR; at IFH patients will be referred to the study by their primary care physician (PCP). The recruitment period is expected to take about 12-15 months. • **Primary and secondary outcomes:** The primary outcomes will be back-related function at 6 months. Secondary outcomes include pain intensity and pain interference as well as clinically meaningful improvement. These and other biopsychosocial measures will be collected at 3-, 6-, and 12-months post-randomization.		• The onset of the COVID-19 pandemic caused severe delays to the progress of the trial due to the surge of illness in a high-risk study population. • There were no changes to the study design. • The questionnaire was revised to incorporate the required HEAL core questionnaires at baseline and 6 months. The Pain, Enjoyment of Life and General Activity scale will be used at the baseline and all follow-up time points.

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	○ The study team hypothesizes that back-related function in older adults with chronic low back pain will be most improved among participants in the enhanced acupuncture arm, followed by the standard acupuncture arm, with the least improvement among those receiving only usual care. ○ A short battery of measures will be used to evaluate physical function, pain interference, and pain intensity at monthly intervals. The study team will collect patient-reported outcome measures. ○ The team will collect data from electronic health records and Medicare in order to assess cost-effectiveness. • **Other important notes about the study:** ○ The Center for Medicare and Medicaid Services (CMS) is currently conducting a national coverage analysis on acupuncture for chronic low back pain (see section below on "Issues beyond the study"). If CMS determines these costs may be covered, the Medicare reimbursement framework may impact participant reimbursement/payment, as some participants will be seen at health care		• CMS has issued a coverage determination for acupuncture, but reimbursement is limited to practitioners who are "appropriately supervised" by a physician. Since no community acupuncturists meet this requirement, there will be no CMS coverage of study-related acupuncture at this time at the three West Coast health care systems. In addition, at the network of federally qualified health centers, where physician supervision is possible, reimbursement for ancillary care such as

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	system facilities (with Medicare reimbursement) and others will be referred to acupuncturists practicing in the community (which may not meet Medicare reimbursement rules). ○ The participating sites are structured differently for acupuncture services, so part of the UG3 pilot phase is to assess what intervention adaptations will be made within each setting.		acupuncture would require a physician visit on the same day as each acupuncture visit. Because this makes reimbursement for acupuncture in this health care system impractical, CMS reimbursement for acupuncture visits is not possible in this trial.
Status of IRB approval	• For the UG3 phase, IRB approval will be obtained at each collaborating site. • During the first year, the team plans to develop materials for submission to a single IRB of record for the UH3 phase, which will be the Kaiser Permanente Northern California IRB.		• All sites obtained local IRB approval for the UG3. • Ceding to the central IRB (at Kaiser Permanente Northern California) has been done for the UH3 phase. • The study team is still awaiting local-context variation documentation from some sites. This is expected to be completed in January 2021.
Risk classification	• From the study protocol (attached supplemental material): ○ Risks of acupuncture: In general, acupuncture is a very safe procedure. Because the needles are thin, they usually cause little or no pain although severe discomfort may occur on rare occasions. Occasionally, up to a week of increased pain or discomfort may occur after treatment. There have also been reports of bruising, fatigue,	Dr. Ali planned to send language around minimal risk as defined in the revised common rule (sent Dec 9 but later retracted as it applied only to prisoners)	

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	fainting, nausea, and infection at the insertion sites, but these also occur infrequently. Both specific and generalized side effects may occur with acupuncture therapy. • The study team indicated that they consider acupuncture in this population to be a minimal risk procedure. • Those on the call discussed the regulatory definition of minimal risk and the differences between a relative risk standard (the risk to someone who has the condition, chronic lower back pain) or absolute risk standard (the risk to a "healthy person"). Some IRBs allow a relative risk standard while others use an absolute risk standard. • While the team anticipates the study to be minimal risk to participants under both of these standards, those on the call suggested that the team be explicit in the IRB materials about why this study would qualify as minimal risk, but ultimately it is the IRB that will make this determination. • At KPWA, acupuncture has been deemed to meet the criteria for minimal risk in prior studies.		• The central IRB has determined the trial to be minimal risk.
Consent	• At KPWA, KPNC, and SH, the study team will contact the PCP to confirm that the patient can be contacted. Patients are then mailed an invitation letter with an information	Members of the Ethics and Regulatory Core need to examine	• A two-stage consent process is employed at all but one site as described below: ○ The first stage involves a telephone call to potential participants, in order

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	sheet. Patients are asked to complete an online screener (or contact the study team). For patients who contact the study team for screening, oral consent is obtained before the screening questions are asked. For patients who are screened study-eligible, oral consent for the trial is obtained, and a baseline interview is completed, and then the participant is randomized to one of the three arms. • At IFH, PCPs will directly refer potentially eligible patients to study staff for screening. Written consent for the trial will be obtained at IFH. • The study team was asked why they did not plan to obtain written consent since participants will be seen for the acupuncture treatment. They explained that the acupuncturists are not study team members who would be able to obtain consent. In addition, not all participants would receive acupuncture treatment (one-third will receive usual medical care). They also described the logistical difficulties of sending a consent form to participants and getting it signed and sent back. • The regulatory requirements for oral consent (waiver of documentation of consent) were discussed. Under 45 CFR 46.117, a waiver of documentation is permissible when the research presents no more than minimal risk	the issue of consent in this trial further.	to obtain their consent to complete study data collection activities and be randomized. Potential participants are mailed a summary of the elements of consent prior to the telephone call, during which oral consent is obtained. This document is used to guide the consent discussion between the research associate and the potential participant. ○ Two-thirds of participants will be randomized to an acupuncture arm, and these participants will undergo an in-person, written consent procedure, conducted by the study acupuncturist at the first intervention visit. The one-third of participants in the usual-care group will only provide oral consent at the time of the initial consent/screening call. (See note about potential changes in this consenting process at page 1 above). • In contrast, at the IFH site, oral consent has been approved. Pursuant to NY State Law and local onsite procedures, subsequent written consent will be obtained for any research participant randomized to acupuncture – this will be performed by the acupuncturists. Of note,

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	of harm to participants and involves no procedures for which written consent is normally required outside the research context. The reviewing IRB would need to determine that these criteria are met to approve an oral consent process for the study. • Those on the call suggested that a written consent process might be preferable to eliminate questions about whether the study meets the criteria for waiver. • Additional research is needed on the CMS issue (described below), including whether there are any special requirements related to consent when doing research under a CED (coverage with evidence determination), which may be the case as this trial is implemented.		IFH provides acupuncture solely through practitioners who practice at an IFH clinic.
Privacy/HIPAA	• From the study protocol (attached supplemental material): • A HIPAA waiver of authorization will be obtained for the EHR record review. Patient health care utilization and administrative data will be used for the identification of patients who are potentially eligible for the study and to examine pertinent health care utilization patterns among study participants (including healthcare encounters and pharmacy-related outcomes). All data will be extracted from		• Kaiser Permanente sites will obtain oral HIPAA authorization. The Sutter and IFH sites will obtain written HIPAA authorization.

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	EHR and administrative databases in each of the healthcare systems participating in the study. Prior to consent, select variables will be extracted (to determine eligibility, as described above) and uploaded into the site's recruitment tracking system, which will be password protected and accessible only to authorized study staff. ○ In previous PCTs conducted by the study team in which the need for written consent was waived and oral consent obtained, similar sources of data (PROs and EHR data) were used without a written HIPAA authorization; however, this required a Privacy Board approval of an alteration of HIPAA. If we determine that written consent is indicated for this trial, a written HIPAA authorization will be obtained. • Those on the call felt that in the context of CMS rules about coverage, there are other factors and more complexity to carefully consider. • It was thought that whatever waiver is granted for consent, the HIPAA authorization would follow the same path.		
Monitoring and oversight	• From the study protocol (supplemental material): ○ An Independent Monitoring Committee (IMC), to be established in		• Data monitoring and oversight will proceed as described in the original protocol and will include regular monitoring of data quality and

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	the UG3 year, will oversee the trial and conduct reviews to evaluate the accumulated study data for participant safety, study conduct and progress. The monitoring plan will be finalized in the UG3 year by the Multiple PIs in collaboration with the Collaboratory Coordinating Center and NCCIH. The IMC will review the study protocol and materials prior to implementation; review Adverse Events (AEs)/Serious Adverse Events (SAEs) and data on recruitment and retention efforts every six months during the conduct of the trial (or at the frequency deemed necessary by NCCIH). Outcomes from each IMC meeting will be shared with the IRB of record and appropriate NIH program staff. • The AcuOA study has established a protocol review committee, which has been approved by NCCIH. This committee consists of experts in pain, chronic pain, internal medicine, family medicine, qualitative research, and clinical trials, and will review all planning materials developed during the UG3 phase. It is expected that this committee will transition into the IMC in the UH3 phase.		completeness along with regular review by the Independent Monitoring Committee. • During the UG3 phase, there is a Protocol Review Committee that reviews the protocol and procedures. The intention is that this Committee (with the same membership) then transitions to become the Independent Monitoring Committee during the UH3 phase.

Issues beyond the study	• A certificate of confidentiality will be automatically provided per recent NIH policy. This certificate adds provisions for future research uses and confidentiality obligations for future data sharing. • CMS has opened a national coverage analysis (NCA) to determine whether acupuncture for chronic low back pain is reasonable and necessary under the Medicare program. CMS is currently soliciting public comment on this topic. If Medicare will cover acupuncture on chronic low back pain in the context of clinical trials, the issue will be how many participants can be treated within the Medicare reimbursement framework, as some will be seen at health care system facilities and others will be referred to acupuncturists practicing in the community (which may not meet Medicare reimbursement rules). CMS planned to issue a final determination of coverage in October 2019 but instead provided notice that a decision is forthcoming. Further analysis of the impact on this trial is required. • Potential CMS-related issues: ○ There are special rules for CMS around criteria for evidence development. CMS is particularly interested in the direct supervision of acupuncture needling (i.e., by an MD or NP). ○ While AcuOA will proceed even without CMS coverage, it is expected	The Ethics and Regulatory Core will discuss and examine any special consideration for conducting pragmatic clinical trials in the setting of CEDs.*	

AGENDA ITEMS	DISCUSSION December 9, 2019	ACTION ITEMS December 9, 2019	CURRENT STATUS As of January 26, 2021
	the results of the trial will inform future coverage determination.		
Additional follow-up information			The study team consulted with the Ethics and Regulatory Core about amounts of study remuneration that might differ between the sites. The Core provided insight around potential justifications for reasonable differences among the sites regarding compensation.

*Medicare released a decision memo on January 21, 2020, that they will cover acupuncture for chronic low back pain under section 1862(a)(1)(A) of the Social Security Act (https://www.cms.gov/medicare-coverage-database/details/nca-decision-memo.aspx?NCAId=295).