

Point of Exchange

INSIDE

Burn injury claims resulting from indirect moxibustion and TDP lamps..... 1

Infrared and TDP lamps..... 1

Case Example 1

Recommendations 2

Analysis..... 2

Indirect Moxibustion and warming needle technique..... 2

Case Example 3

Analysis..... 3

Works Cited..... 3

In the event of a burn..... 4

How to Reach MIEC..... 4

Burn injury claims resulting from indirect moxibustion and TDP lamps

Allegations of “improper performance” in which the patient sustained a burn injury represent 17% of MIEC’s closed acupuncture claims between 2005-2014. Of those injuries, 11% were caused by use of a heat lamp, 4% were related to indirect moxibustion, and 2% were related to use of hot stone massage. These closed claims include both civil litigation actions and investigations by the Acupuncture Board. In addition to these closed claims, MIEC is at the time of this writing actively investigating multiple claims involving burns that resulted from the use of infrared lamps.

In this article we will explore claims that MIEC policyholders have experienced as a result of treatment involving heat lamps and indirect moxibustion, and what practitioners can do to reduce the chance of injury and liability related to such treatments. MIEC acupuncture insurance policies specifically exclude

use of direct moxibustion, therefore direct moxibustion will not be addressed.

Infrared and TDP lamps

Infrared and TDP (Teding Diancibo Pu) lamps consist of a heating element on an adjustable arm that may be placed above the patient and is used to warm the patient’s skin. The heating element in the lamp may reach a temperature that will burn the patient’s skin if it comes into contact or close proximity with the patient.

Case Example

A 35 year old female patient with a variation of spina bifida resulting in numbness in her lower left leg and ankle sought treatment for complaints of pain and numbness in her lower back secondary to previous lumbar surgery. The treatment plan included acupuncture, cupping, and infrared heat lamp therapy.

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Recommendations:

- Do not leave a patient unattended while they are receiving treatment from a heat lamp, especially if the patient is in any way incapacitated or has sensory disability such as diabetic or other neuropathy, paresthesia, etc. According to the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM): “It is imperative that a TDP lamp be monitored carefully when in use and that unexpected movements of the heating element be prevented. Some lamps may slowly lower during the course of a treatment, resulting in a burn over the area being warmed. Mechanical failure of the heat lamp itself may occur during treatment allowing the arm and heating element to rapidly descend near or onto the patient’s skin.” (Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), 2014) The practitioner in the case example above had been using this heat lamp for five years with no prior incidents. Although it may be common practice to leave patients unattended with the lamp, it does not protect patients against such incidents.
- Position lamps so that, in the event of a malfunction, the lamp will not come into contact with the patient.

On the date of the incident, the practitioner performed cupping on the patient’s upper back, followed by needling of the sacral region, lumbar region, and left leg. She left the patient for a period of time with the infrared heat lamp directed toward the outside of the leg from the ankle.

After several minutes, the practitioner smelled a burning smell, which she believed to be coming from the burned cotton ball she used during cupping and had discarded in the trash can. She responded by pouring water into the trash can. A few more minutes passed during which the burning smell did not dissipate. The practitioner returned to the treatment room and discovered that the handle that adjusts the height of the infrared lamp had slipped, bringing the bulb down into direct contact with the towel on the patient’s leg and ankle. Due to her medical condition, the patient had been unable to feel that the lamp was in contact with her limb.

The practitioner inspected the area and noted that there were no blisters. She performed extra acupuncture for infection and inflammation, and gave herbs. She asked the patient to return the next day at no charge to be re-checked. She documented the incident in detail in the patient’s chart. On the following day, the patient called to inform her that the burn had developed a very large blister and that she was going to the emergency room for treatment. Ultimately, it was determined that the patient suffered a third degree burn on her left ankle, necessitating surgery and skin graft, and resulting in permanent scarring of both her ankle and her left buttock, from which skin was

harvested for the skin graft.

Analysis

Expert consultants asked to review this case agreed that it was within the standard of care at that time to leave a patient unattended while undergoing treatment with infrared lamp. Although the severity of the injury suffered by the patient was quite high, this claim was settled at a dollar amount that covered the patient’s medical and other expenses and provided for a reasonable compensation for her pain and suffering. The patient’s willingness to settle the claim is likely due in part to the very positive relationship that she and the practitioner had enjoyed prior to this incident. Furthermore, the practitioner responded to the incident by expressing her deep sympathy at what had happened and by offering close management and follow-up treatment. She documented the incident and her response to it in detail at the time it occurred.

Indirect Moxibustion and warming needle technique

According to Traditional Chinese Medicine theory, moxibustion has a dual effect—tonification and purgation. It is used to warm meridians and expel cold; to induce the smooth flow of qi and blood; and to strengthen yang from collapse (Dharmananda, 2004). In traditional moxibustion, also known as scarring moxibustion or suppurative moxibustion, local minor burns, purulence, and scarring during treatment are considered normal and desirable (Xu, Deng, & Shen, 2014). However, this is not the case with much of

Acupuncture and Oriental Medicine as it is practiced in the United States today, and such outcomes often lead patients to sue for negligence. It is prudent in this culture to be very conservative when administering heat therapy.

Case Example

A 76 year old married male with a history of left knee replacement two years earlier sought treatment for pain from an acupuncturist. The treatment plan included: electrical stimulation, cupping, acupuncture, and indirect moxibustion or warming needle technique. Informed consent was obtained, but the risk of burn was not included in the discussion.

The patient alleged that he was left unattended for an extended period of time after the needle was placed in the leg for indirect moxibustion. He felt a burning sensation and yelled out for help. The acupuncturist responded and removed the needle.

According to the practitioner's recollection, there was no evidence of a burn at that time. The patient left with his wife. A telephone message filed in the patient's chart showed that the patient called four hours later to say he was doing great and had no complaints.

Four days later, the patient called to report a burn where the needle had been placed. The patient was asked to come in for evaluation and treatment. The acupuncturist noted a 1 cm x 1.5 cm burn with infection. The patient ultimately sought treatment from other healthcare providers, as the burn (or ulceration) was painful and slow to heal. The patient ultimately had another

knee surgery, partly because of continuing pain. He developed a post-operative infection which led to a below-the-knee amputation. The patient sued the acupuncturist, alleging negligent treatment resulting in burn which ultimately led to amputation. The patient also alleged lack of informed consent.

Physicians and acupuncturists reviewed the case and believed there was no "causation." In other words, the actions of the acupuncturist did not cause the injuries suffered by the patient. However, during his deposition, the patient denied calling the acupuncturist on the day the treatment occurred to report that he was doing well. The patient's attorney requested the acupuncturist's original telephone log. Upon review of the original phone log, it became apparent that the phone message was created after the patient had received treatment from the acupuncturist for the burn. The case was settled.

Analysis

Clearly, the main issue in defending this claim was that the errant telephone message destroyed the practitioner's credibility. In this case, the claimant also alleged lack of informed consent, as the patient was not advised of the risk of burning.

Works Cited

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- Educate patients about the treatment they are receiving, including what they should do if they feel too much pain. Obtain the patient's informed consent to proceed with indirect moxibustion treatment. Advise them of the risks and benefits of, and alternatives to, the treatment. Include the risks of burning, scarring and infection in the discussion, and document that you have done so.
- If you are performing indirect moxibustion via moxa balls on the needle handle, use a piece of foil around the needle insertion site to protect against burns in the event that a moxa cracks and falls (Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), 2014).
- We spoke with James Douglas, MS, LAc, who has practiced acupuncture for 31 years and is a member of MIEC's Acupuncture Peer Review Committee, to comment on issues related to moxibustion. Mr. Douglas advises practitioners to be aware that even if foil is placed to protect the skin, falling moxa and ashes can fall outside of the foil. In addition, the foil itself can get hot and burn. To reduce risk of burns, practitioners may consider using rolled moxa or treating via the sparrow pecking method.

In the event of a burn...>

In the event of a burn...

- If the burn is a very small, first-degree burn, provide treatment such as cool water, sterile gauze and over-the-counter burn creams. If the burn is severe, or there is concern with infection, refer the patient to a physician. (Council of Colleges of Acupuncture and Oriental Medicine (CCAOM), 2014)
- Express compassion for the patient and commitment to helping them through this adverse event to the capacity appropriate for the severity of the burn.
- Advise patients on how to care for the affected area, including what to do if a blister forms and how to prevent against infection.
- Document any treatment provided and follow-up treatment recommended.
- Document the size, location, and severity of the burn. If possible, take a photograph of the affected area.
- Contact the MIEC Claims Department for situation-specific advice.

Although burns are relatively rare in the practice of acupuncture, the potential severity of these injuries, including the possibility of infection and permanent scarring, warrants careful patient safety practices. The prudent practitioner will protect the patient and decrease the potential for injury by advising patients of the potential risks of treatment and by being physically present during any intense heating modality.

How to Reach MIEC

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