

Lisa LIN

Texas Association of Acupuncturists

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December 8, 2016

The Honorable Larry Gonzales
Texas House of Representatives
Chair, Texas Sunset Commission

and

The Honorable Van Taylor
Texas Senate
Vice Chair, Texas Sunset Commission

Dear Texas Sunset Commissioners:

As the representative for Texas Association of Acupuncturists, I am contacting you concerning the Sunset Review of the Texas State Board of Acupuncture Examiners (TSBAE). The safety and protection of the public is of great concern to us, as the scope of the acupuncture profession has been eroded by other less-trained medical providers.

We have already contacted the Sunset Commission concerning this issue. They informed us that the Sunset Commission is not planning to review the scope of practice of acupuncturists or the other medical providers being reviewed in this session. But we understand that this is the purpose of a Sunset Review – to review the agencies and determine which rules are still serving the people of Texas and which ones should be modified. We have a serious issue that must be considered during this review.

Licensed acupuncturists are required to have graduated from an acceptable approved acupuncture school. This requires a minimum of 2,625 hours of training beyond 60 college credits, including a minimum 705 hours of training specifically in acupuncture theory, plus clinical practice. We consider such high standards necessary to the safety and effectiveness of our medical practice. Shockingly, other medical professions are performing acupuncture with far less training – chiropractors receive a minimum 100 hours in acupuncture and physical therapists are not required by rule to have any training to perform acupuncture, which they refer to as “dry needling.”

This is absurd. Such minimal training lowers the quality, safety, and standard set by professional acupuncturists. The longer training time required for acupuncturists and the breadth of study within the larger context of traditional Chinese medicine prepare licensed acupuncturists to have the highest expertise, greatest skill, and lowest risk in comparison to other professions, who receive a few hundred hours of training at best.

This is a matter of public safety, Governor Abbott. We do not understand why other medical providers are permitted to perform acupuncture on patients with anything fewer than that required for licensed acupuncturists.

As you are aware, the Sunset Commission reviews the rules under which the Texas State Board of Acupuncture Examiners functions. Since its formation in 1993, rule-making by the TSBAE has been subject to review by the Texas Medical Board (TMB). It should be noted that in 1980 (*Andrews v. Ballard*, Civ. A. No. H-77-999) the U.S. District Court stated that acupuncture is included within the Texas Medical Practice Act's definition of the "practice of medicine." (Tex. Rev. Civ. Stat. Ann. articles 4495-4512 and Rules 386.01.12-001-.002, of the Texas State Board of Medical Examiners). Additionally, the definition of acupuncture as originally passed in 1993 supported the position that acupuncture is a surgical, incisive practice and therefore a practice of medicine under the Medical Practice Act.

Today, in 2016, our profession has become established in Texas, and thousands of citizens have received safe and effective treatments from our licensed acupuncturists. After nearly 24 years' excellent track record, we believe that it is time for us to direct our own profession without oversight by the Texas Medical Board.

But there are other reasons we request this change. In the past, when some of the Acupuncture Board members and acupuncturists used the wrong codes (purposely) to file insurance claims, they were caught by the insurance company. These Board members unanimously issued a statement that acupuncturists also can use these code numbers. One of the numbers is 97112, "Neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities" (CPT-Current Physicians Procedural Terminology, CPT-4, American Medical Association, Chicago, IL 60610). We believe that this position statement was issued in order to avoid legal accusations and actions from the insurance company. The statement may be found on the Medical Board website at <http://www.tmb.state.tx.us/page/acupuncture-board> and we hope the Governor's office will look into it.

The Texas Medical Board, rather than providing oversight and guidance to the Acupuncture Board, allowed the Acupuncture Board to publish this position statement to avoid legal responsibility. We believe that by doing so, the Medical Board supported the practice of acupuncture by other professionals. This has rendered the Acupuncture Board ineffective and powerless to set the course for our profession.

We are asking that the Sunset Commission consider our requests in light of these events. We believe that without such unfair influences our Acupuncture Board will be better able to direct the course of our profession competently and properly.

We would appreciate your response to our Association concerning these issues.

Sincerely,



Lisa Lin, L.Ac., EMBA, President
Texas Association of Acupuncturists

cc:

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

Drew Deberry
Policy Director, Office of the Governor
Drew.deberry@gov.texas.gov

Senator Juan "Chuy" Hinojosa
Sunset Commission Member

Senator Kirk Watson
Sunset Commission Member

Ken Levine
Director, Sunset Commission

Jennifer Jones
Deputy Director, Sunset Commission

Steven Ogle
General Counsel, Sunset Commission

Texas Association of Acupuncturists

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November 14, 2016

Ms. Amy Trost, Senior Policy Analyst
Texas Sunset Advisory Commission
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Mr. Steven Ogle, General Counsel
Texas Sunset Advisory Commission
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Mr. Erick Fajardo, Policy Analyst
Texas Sunset Advisory Commission
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Dear Ms. Trost, Mr. Ogle and Mr. Fajardo:

As the representative for Texas Association of Acupuncturists, I am contacting you concerning the Sunset Review of the Texas State Board of Acupuncture Examiners (TSBAE). There has been very little mention of the acupuncture profession and the TSBAE in the sunset reports so far.

Rule-making by the TSBAE has been subject to review by the Texas Medical Board (TMB) since the TSBAE was formed in 1993. Since then, our profession has become established in Texas, and countless citizens have received safe and effective treatments from our licensed acupuncturists. After 23 years' excellent track record, we believe that it is time for us to direct our own profession without oversight by the Texas Medical Board.

The acupuncture profession has seen many challenges from other medical professions who are bringing the use of acupuncture needles under the scope of their licenses. For example, chiropractors and physical therapists in Texas and across the country currently allow the practice of acupuncture (or as some call it, "dry needling") without the minimum 1,800 contact hours required by Texas Occupations Code for acupuncturists. In fact, at present, the North Carolina Acupuncture Licensing Board has entered into a suit against the North Carolina Board of Physical Therapy Examiners concerning

physical therapists' use of acupuncture in the scope of their practice (filed 10/28/16, in the General Court of Justice, Superior Court Division, 16 CVS 9539). This is a tremendous safety issue, as the number of contact hours for these other professions is very brief, compared to the requirements for licensed acupuncturists.

Certainly, the longer training time (currently at a minimum 2,625 contact hours for national certification), the national certification exam process itself, and the breadth of study within the larger context of traditional Chinese medicine, prepare licensees to have the highest expertise, greatest skill, and lowest risk in comparison to other professions who receive a few hundred hours of training at best.

Please let us know when we can meet with you to discuss our proposal for the 2017 Sunset Review of the Texas State Board of Acupuncture Examiners.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Lin".

Lisa Lin, L.Ac., EMBA, President
Texas Association of Acupuncturists

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