

Texas Association of Acupuncturists

4005 Manchaca Road
Austin, Texas 78704
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April 25, 2018

Director Ken Levine
Texas Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711-1300
Via Email to sunset@sunset.texas.gov

Re: The Sunset Advisory Commission Staff's Review of the Texas Medical Board;
2018-2019, 86th Legislature

Dear Sunset Commission Members:

This correspondence is regarding the Texas Acupuncture Board and its area of authority, which has been subject to the authority of the Texas Medical Board for 25 years.

After many discussions with our Association members, we are contacting you again concerning issues that have gone unheard and unanswered. We also wish to alert you to a new trend in the acupuncture profession.

1. Some of us are very concerned and alarmed by the appearance of franchise outlets called "Modern Acupuncture." Neither the franchisees nor the corporation leadership are licensed acupuncturists. Ethics must be top priority for all medical practitioners, including acupuncturists. In 1980, a federal court determined that acupuncture is the practice of medicine, *Andrews vs. Ballard*, Civ. A. No. H-77-999.

We hold to the principle that public members are not allowed to run acupuncture clinics, medical clinics, law firms, etc., but that those businesses must be run by license-holders in the respective professions. Additionally, we consider this dangerous trend to place acupuncturists below the professional dignity of medical practitioners. Therefore, we are asking for clarification by the state concerning a non-licensee's oversight of licensed acupuncturists.

2. Rule-making by the Texas State Board of Acupuncture Examiners (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 25 years' excellent track record of safety, we believe that it is time for us to direct our own profession without oversight by the Texas Medical Board. Therefore we are asking for an independent Texas Acupuncture Board, one that is empowered to finalize decisions for the acupuncture profession (Texas Occupations Code Sec. 205.101 through 205.254).

3. Additional recognition for the excellent track record of licensed acupuncturists in Texas would be the removal of the requirement that acupuncture patients be evaluated first by a physician or dentist or referred by a chiropractor (Sec. 205.301), and the removal of restrictions to practice without a referral (Sec. 205.302). We request that these requests be considered.

4. 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. The number of contact hours for these other professions is very brief compared to the requirements for licensed acupuncturists.

5. Also of great concern is the rule permitting the acupuncture licensure of military personnel after the executive director has been given authority to waive any prerequisite to obtaining a license. See attached copy of Texas Administrative Code, Title 22, Part 9, Chapter 183, Rule 183.4(a)(10)(C). This rule has the potential to defeat all requirements for obtaining an acupuncture license in Texas. If the purpose of this rule is to expedite treatment of our veterans, we say that our veterans deserve the very best-trained medical personnel.

Laws and rules allowing the use of acupuncture by substandard-trained people are tremendous safety issues. Certainly, the longer training time currently required (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. Therefore, we are asking for legislation that will clarify the requirement for medical procedures to be performed by those trained specifically for those procedures.

We appreciate the Commission's review of these issues that concern licensed acupuncturists in the state of Texas. Please let us know when we can meet with you to discuss these issues.

Sincerely,

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

Copy to:
The Honorable Greg Abbott
c/o Andrew Oldham, General Counsel
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

Attachment:
Texas Administrative Code, Title 22, Part 9, Chapter 183, Rule 183.4(a)(10)(C)

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April 13, 2018

Mr. Erick Fajardo, Policy Analyst
Texas Sunset Advisory Commission
Erick.fajardo@sunset.texas.gov

Dear Mr. Fajardo:

After many discussions with our Association members, we are contacting you again concerning issues that have gone unheard and unanswered (see our letters dated January 9, 2017, December 8, 2016, and November 14, 2016). We also wish to alert you to a new trend in the acupuncture profession.

1. Some of us are very concerned and alarmed by the appearance of franchise outlets called "Modern Acupuncture." Neither the franchisees nor the corporation leadership are licensed acupuncturists. Ethics must be number one for all medical practitioners, including acupuncturists. In 1980, a federal court determined that acupuncture is the practice of medicine, *Andrews vs. Ballard*, Civ. A. No. H-77-999.

We hold to the principle that public members are not allowed to run acupuncture clinics, medical clinics, law firms, etc., but that those businesses must be run by license-holders in the respective professions. Additionally, we consider this trend to place acupuncturists below the professional dignity of medical practitioners. Therefore, we are asking for clarification by the state concerning a non-licensee's oversight of licensed acupuncturists.

2. Rule-making by the Texas State Board of Acupuncture Examiners (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 25 years' excellent track record of safety, we believe that it is time for us to direct our own profession without oversight by the Texas Medical Board. Therefore we are asking for an independent Texas Acupuncture Board, one that is empowered to finalize

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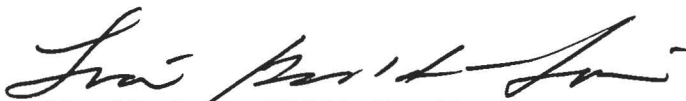
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4. The acupuncture profession has seen many challenges from other medical professions who are bringing the use of acupuncture needles under the scope of their licenses. For example, chiropractors and physical therapists in Texas and across the country 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. Also of real concern is the rule allowing the treatment of veterans with only 400 hours of training. These are tremendous safety issues, 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. Therefore, we are asking for legislation that will clarify the requirement for medical procedures to be performed by those trained specifically for those procedures.

We appreciate the Commission's review of these issues that concern licensed acupuncturists in the state of Texas. Please let us know when we can meet with you to discuss these issues.

Sincerely,



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