



TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS

July 31, 2014

Via Hand Delivery

Roger Matson, Presiding Officer
Executive Council of Physical Therapy & Occupational Therapy Examiners
333 Guadalupe, Suite 2-510
Austin, TX 78701-3942

Dear Mr. Matson,

I write you on behalf of the Texas State Board of Acupuncture Examiners to follow up on a November 13, 2014 letter sent to your Council from the National Center of Acupuncture Safety and Integrity (NCASI) regarding trigger point dry needling by physical therapists and possible violations of the U.S. Food, Drug and Cosmetic Act (FDCA) and Food and Drug Administration Rules.

The Texas Board of Acupuncture Examiners support the conclusion of the NCASI that the ordering and purchase of acupuncture needles, which are defined as Class II prescription devices in the FDCA, by individuals who are not qualified and licensed as acupuncture practitioners, constitutes a violation of the FDCA. The Board is additionally concerned that the practice "trigger point dry needling" by Texas Physical Therapists who are not licensed to practice acupuncture by the Texas Board of Acupuncture Examiners involves the unlicensed practice of acupuncture in violation of Texas Occupations Code §201.201, Section 201.201 states, "Except as provided by Section 201.303, a person may not practice acupuncture in this state unless the person holds a license to practice acupuncture issued by the acupuncture board under this chapter."

Acupuncture is defined by §205.001 of the Texas Occupations Code as "the nonsurgical, nonincisive insertion of an acupuncture needle and the application of application of moxibustion to specific areas of the human body as a primary mode of therapy to treat and mitigate a human condition, including evaluation and assessment of the condition." According to available descriptions, trigger point dry needling involves the insertion of acupuncture needles into a patient as primary mode of therapy. Additionally the use of acupuncture needles in this therapy, needles defined under federal rules as "a device intended to pierce the skin in the practice of acupuncture," presents further evidence that trigger point dry needling involves the practice of

July 30, 2014

Page 2

acupuncture. As such, practitioners carrying out trigger point dry needling would need to be licensed by the Texas Board of Acupuncture Examiners. Physical therapists carrying out trigger point dry needling therapy without an acupuncture license could be subject to cease and desist actions pursuant to Texas Occupations Code §205.362.

The Texas Board of Acupuncture Examiners respectfully asks that you share our concerns with your fellow board members and the licensee whom you license and regulate. The Board would also be receptive to entering into a dialogue with your Council regarding these issues.

Sincerely,



TEXAS STATE BOARD OF ACUPUNCTURE EXAMINERS

Allen D. Cline, L.Ac.
Presiding Officer

cc: Mari Robinson, Executive Director
Scott Freshour, General Counsel
Rob Blech, Assistant General Counsel