



# Texas State Board of Acupuncture Examiners

## ***Position Statement on CPT Code Billing by Licensed Texas Acupuncturists***

In 2011, the Texas State Board of Acupuncture Examiners (TSBAE) established a stakeholder group to address recurring reports from licensed practitioners that insurance carriers are routinely denying legitimate claims for payment in regard to treatments provided within the scope of practice for licensed Texas acupuncturists and alleging insurance fraud on the part of licensed acupuncturists.

As a result of the efforts of the stakeholder group and the TSBAE Ad Hoc Subcommittee on CPT Coding, the TSBAE has adopted this position paper, with the intention to eliminate premature or unfounded allegations of fraud by insurance companies, help acupuncturists to better understand their scope of practice, and establish working parameters for dealing with any fraud allegations in the context of CPT coding for properly documented acupuncture care.

### **Specific Codes**

The pertinent codes for acupuncturists in the state of Texas are for acupuncture performed in accordance with § 205.001(2)(A) of the Acupuncture Practice Act (the Act). They are as follows:

97810 Acupuncture, one or more needles, without electrical stimulation, initial 15 minutes of personal one-on-one contact with the patient.

97811 Acupuncture, one or more needles, without electrical stimulation, each additional 15 minute increment of personal one- to-one contact with the patient, with reinsertion. (List separately in addition to code for primary procedure)

97813 Acupuncture, one or more needles, with electrical stimulation, initial 15 minutes of personal one-on-one contact with the patient.

97814 Acupuncture, one or more needles, with electrical stimulation, each additional 15 minute increment of personal one-on- one contact with the patient, with reinsertion. (List separately in addition to code for primary procedure)

The definition of acupuncture in the Texas Acupuncture Practice Act, §205.001(2) of the Tex. Occ. Code, can be a source of confusion in that it contains statements requiring clarification. The Act states: "*Acupuncture*" means: *the nonsurgical, nonincisive insertion of an acupuncture needle...*" Acupuncture is an incisive and invasive procedure. The needle is applied subcutaneously. There can be bleeding or bruising. Acupuncture also refers to a medical discipline that requires diagnosis, treatment and prognosis based on the theories of Oriental medicine to prevent and treat various diseases and promote wellness.

The procedures of the discipline include but are not limited to manual therapies, and use of physical agents such as cupping (negative pressure), scraping, mechanical devices, heat, cold, air, light, water, electricity, and sound in the aid of diagnosis or treatment. In Texas, the recommendation of herbal medicine and nutrition are within the scope of practice for acupuncture. Licensing and scope of practice parameters provide autonomy, but also convey responsibility and potential liability. For these reasons among others, safe and effective practice requires comprehensive education.

The following list of codes are representative of practice standards among acupuncturists in general, based upon educational standards from the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) job task analysis, and conventions of acupuncture practice in the state of Texas. As noted below, this list is not necessarily all inclusive and there may be other codes that should be utilized as being appropriate and consistent with authorized practice in Texas. In addition, all coverage decisions are made by terms of private agreement; however, there is no restriction on independent billing in Texas for acts performed within the scope of the practice.

The TSBAE has determined that the following acts are within the practice of acupuncture and are permitted under §205.001(2)(B) of the Acupuncture Practice Act:

### **Physical Medicine**

97010 Hot or cold packs (scope of Tex. Occ. Code, Sec. 205.001 allow for thermal treatments)

97014 Electrical stimulation (performed without needle procedures)

97016 Vasopneumatic devices (cupping)

97026 Infrared (heat lamp)

### **Therapeutic Procedures**

97110 Therapeutic

97112 Neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities

97116 Gait training (movement with needles in)

91739 Unlisted procedures - procedures that are otherwise allowed through the scope of acupuncture (submission of medical records should be submitted when this code is applied)

### **Vitamins and Herbs**

A9150 Nonprescription drug (herbal preparations)

A9152 Single vitamin/mineral trace element per dose

A9153 Multiple vitamins w or w/o minerals per dose

### **Tens and Supplies**

E0720 Tens unit (two lead)

E0730 Tens unit (four lead)

A4556 Electrodes (per pair)

A4558 Conductive paste or gel (NMES divide)

### **Heat and Cryotherapy**

E0238 Heat moist

E0210 Electric heat pad

E0230 Ice pack

E0220 Hot water bottle

### **Additional Procedures**

97530 Therapeutic activities (energetic exercise)

97535 Self care management instruction (i.e., recommendation of and training of use of energy flow exercises)

### **Modifiers**

-51 Multiple procedures

-59 Distinct procedural service

## **Evaluation and Management (E&M)**

This discussion of E&M Codes is limited to the issue of whether the mere use of such codes by acupuncturists is fraudulent per se. The Board takes the position that the mere use of E&M Codes is not fraudulent per se and will not automatically subject licensees to discipline. However, the Board takes no position on whether the use of E&M codes is appropriate or reimbursable by health insurance companies.

The utilization of evaluation and management codes would appear to be permissible given §205.001(2)(A) of the Act. Evaluation and management (E&M) are part of an acupuncturist's scope of practice. The inclusion of E&M in the acupuncture codes is divided into three minimal segments:

- Pre-service is 3 minutes and includes greeting the patient and a brief interval history.
- Intra-service is 15 minutes for actions connected to the acupuncture procedure: hand washing, patient positions, locating and cleaning the points, inserting and stimulating the needles, checking on the patient, removing the needles. This does not include needle retention time without direct patient monitoring or communication.
- Post-service is 3 minutes and includes charting and any instructions to the patient.

The intention behind the CPT code set for E&M allocations was for appropriate additional amounts to be added under E&M codes. If pre and post service time substantially exceed 6 minutes it is appropriate to charge for a suitable level of E&M. Further, chart notes must accurately reflect that work.

Additional E&M codes are necessary to honestly represent work. They are divided into a new and a returning patient series of five levels of increasing complexity, time, and charge. New patient codes are 99201 through 99205. Established patient codes are 99211 through 99215. The difference between a new patient and an established patient is three years. If the patient has not been seen by anyone in a given clinic during that time, they can be considered new.

It is essential to document the fulfilled requirements of an E&M code per the CPT manual. For example, modify the E&M code with a -25 modifier to denote that this is a significant, separately identifiable level of service. Insurers should expect E&M to be billed with a new patient and on reevaluation or a new diagnosis of an established patient. It is inappropriate to bill an E&M code for each visit.

These listings are not all inclusive and there may be other codes that are representative of care within acceptable scope and standards of practice.

## **Conclusion**

Billing administration and coding can be extremely challenging. In recent years, considerable attention has been brought to bear on coding problems for almost all licensee groups. It is not the role of the TSBAE to determine what payment structure should be applied to reimbursement for acupuncture services. That said, it is clearly within the TSBAE's scope to determine what is allowed to be performed under an acupuncture license in this state. Whether those services will ultimately be considered covered services and be compensated by insurance companies is solely a matter of private contract and to be determined by providers and the insurance companies. In addition, this position statement is only intended to apply to licensed acupuncturists.