



JUL 24 2006

Michael Leahy, DC
Active Release Techniques, LLC
175 South Union Blvd.
Suite 230
Colorado Springs, Colorado 80910

Dear Dr. Leahy

This letter is in response to your requests, including your most recent letter dated July 7, 2006, that OSHA reconsider its decision to classify Active Release Techniques (ART) as medical treatment as it relates to 29 CFR Part 1904, OSHA's injury and illness recordkeeping regulation. Please note that this letter supersedes the January 5, 2006 memorandum from the Director of OSHA's Directorate of Evaluation and Analysis to OSHA's Region VIII Administrator concerning Active Release Techniques.

Section 24(a) of the Occupational Safety and Health Act of 1970 requires the Secretary of Labor to compile accurate statistics on work injuries and illnesses. In response, OSHA promulgated 29 CFR Part 1904, Occupational Injury and Illness Recording and Reporting Requirements. This rule directs employers to record work related injuries and illnesses that, among other criteria, require medical treatment beyond first aid. Through the rulemaking process, OSHA has defined what constitutes a work-related injury or illness and what constitutes medical treatment for recordkeeping purposes (29 CFR Part 1904.7(b)(5)). In this situation, the key issue is whether ART should be considered massage, thereby falling within the definition of first aid, rather than medical treatment under this regulation. Please keep in mind that the list of first aid treatments in Section 1904.7(b)(5)(ii) is comprehensive, and that any treatment not included on this list is not considered first aid for OSHA recordkeeping purposes.

In determining whether ART constitutes first aid or a medical treatment under the definitions of the recordkeeping rule, OSHA's Directorate of Evaluation and Analysis, in consultation with the Office of Occupational Medicine, undertook a comprehensive analysis including: 1) evaluation of the literature description of ART; 2) examination of the patent application for ART and the subsequent Certificate of Correction filed at the U.S. Patent Office; 3) review of articles concerning ART in medical journals; 4) review of an insurance provider's classification of the ART procedures you provided to us; and 5) observation of an ART demonstration.

After completing an analysis of the information currently available, OSHA cannot determine that ART generally exceeds what is commonly recognized as massage practices. Based on this determination, OSHA finds that ART is considered first aid for injury and illness recordkeeping purposes. However, please keep in mind that work-related injuries and illnesses that involve ART are recordable if they also entail the use of medical treatment, a job transfer, restricted work activity, or days away from work. For example, a work-related injury or illness is recordable if prescription medications are administered in response to an injury or illness, in conjunction with the manipulation of the skeleton, it would be recordable.

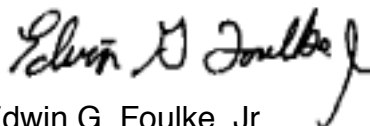
Regarding recordability in general, we would like to point out that when ART is administered as a purely precautionary measure to an employee who does not exhibit any signs or symptoms of an injury or illness, the case is not recordable. If ART is administered to employees as part of an employee wellness program and those employee do not exhibit signs or symptoms of an abnormal condition related to work, there is no case to record.

Additionally, if an employee has an injury or illness that is **not** work-related (e.g., the employee is experiencing muscle pain for home improvement work) the administration of the ART technique does not render that case recordable.

In summary, work-related injuries and illnesses are not recordable based solely on the administration of ART, but may become recordable when administered in conjunction with medical treatment. As stated above, if ART is administered as a purely precautionary measure to an employee who does not exhibit any signs or symptoms of an injury or illness, the case is not recordable.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. In addition, we reserve the right to review or revise the interpretation stated in this letter based on new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please contact the Division of Recordkeeping Requirements at 202-693-1702.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin G. Foulke, Jr.", written in a cursive style.

Edwin G. Foulke, Jr.