



Id # 11,443
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Opinion Committee

January 10, 1991

The Honorable Dan Morales
Attorney General of Texas
Supreme Court Building
Austin, Texas 78711

Dear General Morales:

By letter dated February 12, 1990, the Texas Department of Health forwarded a request for an opinion to your office relating to two issues which had arisen under V.T.C.S., Article 4512d relating to the licensure of athletic trainers. This request for an opinion was assigned # RQ-1940. By letter dated December 27, 1990, the Opinion Committee of your office stated that it was deadlocked over the answer to the second question and would not attempt resolution of the issue until after the 72nd Legislature.

The purpose of this letter is to re-request an opinion on the first issue raised by the Department. The issue is whether the term "physician" as used in Article 4512d encompasses persons (MD's and DO's) licensed by the Texas Board of Medical Examiners, dentists (DDS's) licensed by the Texas State Board of Dental Examiners, chiropractors (DC's) licensed by the Texas State Board of Chiropractic Examiners, optometrists (OD's) licensed by the Texas Optometry Board, and podiatrists (DPM's) licensed by the Texas State Board of Podiatry Examiners.

The term "physician" is used in the definition of "athletic trainer" as found in Section 1 of the Act. Section 1(1) defines an "athletic trainer" as:

"a person with specific qualifications, as set forth in Section 9 of this Act, who, upon the advice and consent of his team physician carries out the practice of prevention and/or physical rehabilitation of injuries incurred by athletes. To carry out these functions the athletic trainer is authorized to use physical modalities such as heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment."

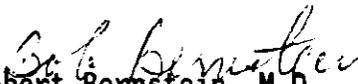
The term "physician" is not defined in the Act; however, the term is used in Section 1(4). That section states that the provisions of the Act "do not apply to physicians licensed by the Texas State Board of Medical Examiners; to dentists, ...

optometrists, ... occupational therapists, ... nurses ... chiroprodists or podiatrists, ... physical therapists ... masseurs ... (or certain) physicians or physical therapists or physical therapists assistants". These exemptions are generally limited to the above-referenced persons when they confine their practice strictly to the field for which each one is licensed.

Is the use of term "physician" in Section 1(1) intended to refer only to persons licensed by the Texas State Board of Medical Examiners or may the term "physician" in Section 1(1) be read to include other primary health care providers? Other primary health care providers would be persons licensed by the Texas Optometry Board pursuant to the Texas Optometry Act, V.T.C.S., Article 4552-1.01 et. seq.; the Texas State Board of Dental Examiners pursuant to V.T.C.S., Article 4543 et. seq.; the Texas State Board of Podiatry Examiners pursuant to V.T.C.S., Article 4567 et. seq.; or the Texas Board of Chiropractic Examiners pursuant to V.T.C.S., Article 4512b. This question is asked only in reference to the extent that the persons licensed by these boards may be advising and supervising athletic trainers regarding rehabilitation and treatment within the scope of practice of the supervising licensee.

Thank you for your attention to this matter. If you require any further information, please contact Linda Wiegman, Attorney, Office of General Counsel, Texas Department of Health, at (512) 458-7236.

Sincerely,


Robert Bernstein, M.D., F.A.C.P.
Commissioner of Health