



Texas State Board of Medical Examiners

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January 6, 1992

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ID # 14633.
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Opinion Committee

The Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

Re: Request for Attorney General Opinion on Rule 280.5(g)(h)
adopted by the Texas Optometry Board December 17, 1991

Dear Mr. Attorney General:

The Texas State Board of Medical Examiners requests an Attorney General Opinion concerning the above rule and whether it is consistent with the intent of Senate Bill 774.

Senate Bill 774 specifically excluded antiviral agents and antiglaucoma agents, but the Optometry Board rule referenced above includes those agents under the premise that they would not be used for those conditions. This is an untenable position and is contrary to the specific language in SB 774.

In addition, SB 774 states that "the [Optometry] board shall adopt rules setting forth the specific pharmaceutical agents therapeutic optometrists may use...." The rule lists only broad categories of agents, rather than specific agents; and appears to be an attempt to circumvent the specificity required by the language of SB 774.

The Board also requests your opinion of Article 3, Section 51-a of the Texas Constitution which specifically prevents optometrists from treating the eyes "...for any defect whatsoever in any manner, nor to administer nor to prescribe any drug or physical treatment whatsoever, unless such optometrist is a regularly licensed physician or surgeon under the laws of this state." The Board requests your opinion as to whether the Constitution specifically limits optometrists from treating Medicaid patients only, or whether it is a broader prohibition.

Very sincerely,

Homer R. Goehrs, M.D., F.A.C.P.
Executive Director

HRG:pw