



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL,
ATTORNEY GENERAL

January 8, 1976

The Honorable Garland A. Picou
Chairman
Texas State Board of Physical
Therapy Examiners
1500 W. 38th, Suite 18
Austin, Texas 78731

Opinion No. H-758
Re: Fees charged by
the Board of Physical
Therapy Examiners.

Dear Mr. Picou:

You have requested our opinion concerning recent amendments to article 4512e, V.T.C.S., which changed in part the fee system for the examination and licensing of physical therapists and physical therapist assistants. Whereas sections 8 and 9 formerly provided for a \$5.00 examination fee and \$25.00 and \$15.00 license fees respectively, these sections now provide for no license fee, a \$25.00 application fee, and \$50.00 and \$45.00 examination fees, respectively. You have asked us whether the higher fees should have been collected beginning May 27, 1975, and if so, whether any underpayments should be collected from those who have taken examinations since that date.

Senate Bill 634, the amending act, was signed on May 27, 1975, and since it contained an emergency clause it became effective on that date. Acts 1975, 64th Leg., ch. 307, p. 795; 53 Tex.Jur.2d, Statutes § 26, and authorities cited therein. Thereafter, the Board of Physical Therapy Examiners had no authority to issue a license except upon compliance with the fee requirements of article 4512e as amended. Examinations conducted and licenses issued after May 27, 1975 were conducted and issued under the authority and thus under the fee schedule of article 4512e as amended. Accordingly, a person who has applied for a license or taken an examination subsequent to May 27, 1975 was on notice of the amended fee requirements. Popham v. Patterson, 51 S.W.2d 680 (Tex.Sup. 1932). It is therefore our opinion that such persons were thereafter liable for the new statutory fees and must remit any unpaid portions of such fees to the Board.

You have also asked whether applicants must pay a temporary license fee in addition to the application and examination fees. Article 4512e, section 11(a) provides for a \$20.00 fee for temporary licensing of physical therapists and assistants who are temporarily within the State. This subsection does not apply to applicants for licenses under sections 8 and 9, those applicants being governed by section 11(b) which provides:

The board shall issue a temporary license to a person who has applied for a license and meets the qualifications under the provisions of Sections 8 or 9 of this Act. This license expires upon completion of the next administered examination whether or not the applicant passes the examination.

Thus section 11(b) requires the Board to issue a temporary license to applicants who meet the qualifications contained in sections 8(a) and 9(a). As opposed to section 11(a), section 11(b) makes no mention of any fees in addition to those provided in sections 8 and 9. We have held that fees may not be collected by administrative agencies unless authorized by statute. Attorney General Opinion H-669 (1975). It is our opinion that this principle, in conjunction with what we believe to be the clear legislative intent of section 11(b), precludes the Board from collecting a temporary license fee under section 11(b).

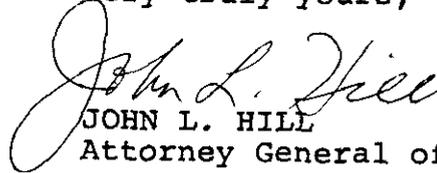
S U M M A R Y

The amendment of article 4512e, V.T.C.S., relating to licenses for physical therapists and assistants was effective May 27, 1975. All persons applying for a license or taking an examination after that date must pay the fees provided therein.

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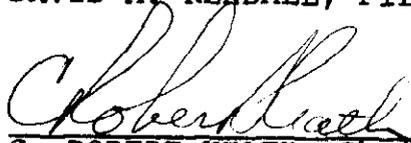
A temporary license fee may
not be collected when such a license
is issued under article 4512e,
section 11(b).

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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