



ADVISORY BOARD OF ATHLETIC TRAINERS

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1D# 13681
mjs

September 17, 1991

RQ-209

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

RECEIVED

SEP 24 91

Opinion Committee

Re: Request for opinion

Dear General Morales:

The Advisory Board of Athletic Trainers licenses and regulates athletic trainers in the State of Texas. Several issues have arisen concerning the scope of practice of athletic trainers, physical therapists, and emergency medical technicians. At its meeting on September 15, 1991 the board authorized the filing of this opinion request relating to those issues.

Questions

- 1) Is an athletic trainer working in a physical therapy clinic required to follow the rules of the Texas State Board of Physical Therapy Examiners relating to physical therapy aides?
- 2) May physical therapists or emergency medical technicians contract to perform services falling within the definition of "athletic trainer"?

Discussion

I.

The board received a copy of the enclosed July 2, 1991 letter from an investigator at the Texas State Board of Physical Therapy Examiners. The board disagrees with the conclusions of the investigator.

The law relating to physical therapists is found at V.T.C.S., Article 4512e. The law requires that a physical therapist or a physical therapist assistant be licensed. There is no licensure for a physical therapy aide who is defined as a person receiving on-the-job training and on-site supervision from a physical therapist or physical therapist assistant. Section 6 of Article

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4512e specifically exempts from the Act a licensee of another state agency performing health care services within the scope of the applicable licensing act or a physical therapy aide.

The law relating to athletic trainers is found at Article 4512d. Under §1 an athletic trainer is a person "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". The law lists specific physical modalities which an athletic trainer may use. If an athletic trainer working in a physical therapy clinical setting is acting upon the advice and consent of his or her team physician, the athletic trainer would be exempt from the law relating to physical therapists because the trainer is working within the scope of his or her license.

It is the understanding of the board that athletic trainers working in physical therapy clinics are not usually working under the direction of the team physician, but are working under the delegated authority of a licensed physician employed by the clinic. Individuals may work under the delegated authority of a physician under the Medical Practice Act, Article 4495b, V.T.C.S. As long as the requirements of the Medical Practice Act are met concerning delegated authority, a person performing acts under the supervision of a physician would be acting under the physician's license and would be within the scope of the Medical Practice Act. Such a person comes within the exemption to the physical therapy law under the physician's license. See Attorney General Opinion No. JM-421(1986).

An athletic trainer working in a physical therapy clinic under the advice and consent of his team physician or under the delegated authority of a licensed physician would be exempt from the law relating to physical therapists. Therefore, such an athletic trainer can not be a physical therapy aide under that law or subject to the rules adopted under that law. An athletic trainer who is not working under the authority of a physician would not be exempt from the physical therapists law and could fall within the definition of a physical therapy aide.

II.

The board has received complaints concerning licensed physical therapists or emergency medical technicians contracting to provide preventive as well as emergency care at sporting events or practices. While the provision of emergency care would be allowed under the Health and Safety Code, Chapter 773 relating to emergency medical services in the case of emergency medical technicians or Article 4512e, §19(a)(5) as added by Acts 1991, 72d Legislature, Regular Session, Chapter 372 (House Bill 925) relating to physical therapists, it is the position of the board that State law does not

allow physical therapists or emergency medical technicians to perform preventive services for athletes at sporting events or practices.

Athletic trainers provide preventive services of the type described on the first page of the attached document which was prepared by board members to describe an athletic trainer's usual practice. Such services are clearly not within the definition of "emergency medical services" or "emergency pre-hospital care" found in the Health and Safety Code, Section 773.003.

Article 4512e, §19(a)(2) relating to physical therapy allows a licensed physical therapist to "treat a patient for an injury or condition that was the subject of a prior referral" under certain conditions. The preventive services described herein are not the treatment for an injury or condition that was the subject of a prior referral, therefore, that language would not allow a physical therapist to perform preventive services for athletes at sporting events and practices.

Section 19(a)(4) states that a licensed physical therapist "may provide physical assessments or instructions to an asymptomatic person without the referral of a physician, dentist, chiropractor, podiatrist, or other licensed health-care personnel". The issue is whether this paragraph would allow all preventive services to be performed by a physical therapist at sporting events and practices. This language does not appear to encompass such hands-on preventive services described in the attachment relating to taping, application of protective devices, and heat and cold illness prevention. It may allow a physical therapist to perform physical examinations and screening procedures and provide instructions as to preventive procedures the athlete may implement.

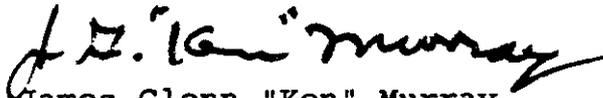
Conclusion

In conclusion, it is the position of the board that a athletic trainer working in a physical therapy clinic is not subject to the law relating to the licensing and regulation of physical therapists unless the trainer is not within the definition of Article 4512d, §1 or is not under a physician's delegated authority. Emergency medical technicians may not provide any preventive services to athletes at sporting events or practices and physical therapists may not perform most preventive services for athletes at sporting events or practices.

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If you have any questions concerning this request, please contact Linda Wiegman, Office of General Counsel of the Texas Department of Health, at (512) 458-7236. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "J. G. 'Ken' Murray". The signature is written in a cursive style with a prominent initial "J" and a long, sweeping underline.

James Glenn "Ken" Murray
Chairman, Advisory Board of Athletic Trainers