



Texas Medical Association v. Texas Board of Chiropractic Examiners, 2018 Tex.App. LEXIS 9490 (Tex. App. 2018)

Topics Covered: Scope of Practice

Outcome: Neutral

Issue

The issue in this case was whether the scope of practice rules of the Texas Board of Chiropractic Examiners (TBCE) exceed the scope of practice allowed under Texas statutory law.

AMA Interest

The AMA believes the public should be protected against health professionals who practice outside the scope of their training and licensure.

Case Summary

This suit challenges certain provisions of TBCE's Scope of Practice Rule, Tex. Admin. Code § 78.13, as exceeding the boundaries of the Texas Chiropractic Act (TCA). In particular, the Texas Medical Association (TMA) asserts the Scope of Practice Rule –

- (a) Improperly authorizes chiropractors to perform “Technological Instrumented Vestibular-Ocular-Nystagmus;”
- (b) Defines “musculoskeletal system” to include “nerves;”
- (c) Defines “musculoskeletal system” as a “neuromusculoskeletal condition;” and
- (d) Uses the term “diagnosis.”

After a bench trial, the court found in favor of TMA and adjudged that the Scope of Practice Rule exceeds the scope of practice allowed under the TCA. TCA appealed to the Texas Court of Appeals, Third Circuit.

On November 21, 2018, the Court of Appeals affirmed the judgment regarding paragraphs (a) through (c) above. However, it reversed as to paragraph (d), finding that it was within TBCE's prerogative to use “diagnosis” in the Scope of Practice Rule.

Litigation Center Involvement

The Litigation Center contributed to the Texas Medical Association's legal expenses.