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Mr. Dennis Wells
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Dear Mr. Wells,

On behalf of the Arizona Physical Therapy Association we are writing you to request your assistance in attaining an Opinion of the Attorney General requiring clarification of the intent and breadth of Arizona Revised Statute 32-2042 subsection C and D.

Question:

Are Chiropractors, the profession of chiropractic, or any other profession or individual exempt from the title and term protection granted to Physical Therapists under ARS 32-2042 subsection C and D?

Statute:

32-2042. Use of titles; restrictions; violation; classification

C: A person or business entity or its employees, agents or representatives shall not use in connection with that person's name or the name or activity of the business the words "physical therapy", "physical therapist", "physiotherapy", "physiotherapist" or "registered physical therapist", the letters "PT", "LPT", "RPT", "MPT", "DScPT" or "DPT" or any other words, abbreviations or insignia indicating or implying directly or indirectly that physical therapy is provided or supplied, including the billing of services labeled as physical therapy, unless these services are provided by or under the direction of a physical therapist who is licensed pursuant to this chapter. A person or entity that violates this subsection is guilty of a class 1 misdemeanor.

D: A person or business entity shall not advertise, bill or otherwise promote a person who is not licensed pursuant to this chapter as being a physical therapist or offering physical therapy services.

Background:

For many years the Chiropractor profession has advertised the performance of "Physical Therapy" and "Physiotherapy" which has led to many complaints by Physical Therapists to the Arizona Board of Physical Therapy Examiners. These complaints are forwarded to the Arizona Board of Chiropractic Examiners. The Chiropractic Board of Examiners' stance is that while Chiropractors cannot use "Physical Therapy", the term "Physiotherapy" is permissible. This inactionable stance lacks satisfaction to the complainant and fails to reduce future complaints. The cycle of misrepresentation and false advertising by the chiropractic profession is ultimately misleading to the public, in suggesting chiropractic and physical therapy are the same profession.

One example of the current Chiropractic Board of Examiners stance, that "physical therapy" is a protected term, use of "physiotherapy" is permissible, is evidenced by this email from their executive director to a physical therapist issuing a complaint.

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Mr. XXX As you are likely aware, chiropractors are not subject to the statutes regulating physical therapy. In addition, this Chiropractic Board has made a determination that use of the term “physiotherapy” is appropriate for any licensed chiropractor who possesses a certification in Physical Medicine Modalities and Therapeutic Procedures. The Chiropractic Board will continue to investigate the matters you presented and determine whether disciplinary action is necessary for use of the term “physical therapy”.

Pamela J. Paschal Executive Director

In 1983, the Chiropractic Board of Examiners adopted a Substantive Policy Statement stating that “Arizona law authorizes the practice of two chiropractic specialties after certification by the Board: Acupuncture and Physiotherapy.” At that time, and until April 2010, the term “physiotherapy” existed in ARS Title 32 Chapter 8. The term “Physiotherapy” appears in two places, however, it is not defined in the statutes.

32-900 1-5: In this chapter, unless the context otherwise requires: 1. "Board" means the state board of chiropractic examiners. 2. "Certification" means that a doctor of chiropractic has been certified by the board in a specialty of chiropractic as provided by law. 3. "Chiropractic assistant" means an unlicensed person who has completed an educational training program approved by the board, who assists in basic health care duties in the practice of chiropractic under the supervision of a doctor of chiropractic and who performs delegated duties commensurate with the chiropractic assistant's education and training but who does not evaluate, interpret, design or modify established treatment programs of chiropractic care or violate any statute. 4. "Doctor of chiropractic" means a natural person who holds a license to practice chiropractic pursuant to this chapter. 5. "License" means a license to practice chiropractic.

32-922.02 Subsection C1-3: C. An applicant who wishes to be certified to perform physiotherapy shall submit the following to the board:

1. A complete application as prescribed by the board. 2. Documentation of successful completion of a minimum of one hundred twenty hours of study in physiotherapy at an accredited chiropractic college or postgraduate study with an instructor on the active or postgraduate staff of an accredited chiropractic college. 3. Documentation of having passed an examination in physiotherapy that is approved by the board.

32-925 Subsection A 3: Treatment by adjustment of the spine or bodily articulations and those procedures preparatory and complementary to the adjustment including physiotherapy related to the correction of subluxations or orthopedic supports of the spine and acupuncture.

In April 2010, the statutes governing the practice of chiropractic changed, and amongst those changes the term “physiotherapy” was removed from “Practice of chiropractic; limitations” (32-925) and “Specialties; certifications; fees” 32-922.02. Along with this change, the Arizona Board of Chiropractic Examiners ceased conferring certifications in “physiotherapy”, issuing the last certificate in July 2010. Two new terms (physical medicine modalities and therapeutic procedures) were added to the statutes governing chiropractic. Definitions for these terms were added to 32-900 and a new certification

(physical medicine modalities and therapeutic procedures) was added to 32-922.02. The board began issuing certifications in Physical Medicine Modalities and Therapeutic Procedures in August of 2010. These changes were brought about by the signing of HB 2025. According to the documented history of the bill by the forty-ninth Legislature, the provisions of the bill:

-Replaces the term physiotherapy with the terms physical medicine modalities and therapeutic procedures. - Clarifies that chiropractors may provide treatment related to neuromuscular skeletal disorders and may prescribe orthopedic supports. -Grandfathers in chiropractors who are certified in physiotherapy so that they are deemed to be certified in physical medicine modalities and therapeutic procedures. Subsection F was also added to 32-922.02 stating: *A chiropractor who is certified in a specialty pursuant to subsection C before the effective date of this amendment to this section is deemed to be certified in physical medicine modalities and therapeutic procedures.*

We also found a non-conforming rule that remained after the change in terms from "physiotherapy" to "physical medicine modalities and therapeutic procedures". In cross-referencing Article 11.

(Chiropractic Assistants R4-7-1102 Chiropractic Assistant Training):

*"If a chiropractor supervising a C.A. is certified in **physiotherapy** under A.R.S. § 32-922.02, the C.A. shall complete 12 hours of training in physiotherapy in addition to the 24 hours of coursework."*

With the authorizing statute 32-922.02 (Specialties; certification; fees) which reads:

*C. An applicant who wishes to be certified to perform **physical medicine modalities and therapeutic procedures**. . .*

Arizona Physical Therapy Association Stance:

We believe that the term "Physiotherapy" and "Physical Medicine Modalities and Therapeutic Procedures" are not interchangeable and it was the intent of the legislature to replace one with the other for the following reasons:

- The provisions of HB 2025 state that the bill "Replaces the term physiotherapy with the terms physical medicine modalities and therapeutic procedures"
- All occurrences of the term "physiotherapy" have been stricken from ARS Title 32 Chapter 8
- The Arizona Chiropractic Board of Examiners has not issued a certification in "physiotherapy" since July 2010
- ARS 32-2042 clearly states that any person or business entity using any of the titles listed, including "physiotherapy", is in violation of the statute and guilty of a class 1 misdemeanor
- We were unable to locate wording providing exception or excluding Chiropractic from ARS 32-2042 in ARS Title 32 Chapter 8 (Chiropractic) or Chapter 19 (Physical Therapy)

Physical Therapy and Chiropractic are distinct entities, with different educational backgrounds and professional paradigms. Each has its own licensure, scope or practice, and rules of regulation. To advertise one as the other is fraudulent, misleading to the public, and provides a path for deceitful business practices. In 2010 the legislation of Arizona realized this and closed this "loop hole" that was being exploited.

To summarize: Prior to and after 2010 chiropractors continue to advertise "Physical Therapy" and "Physiotherapy" because their board stance is *"this Chiropractic Board has made a determination that use of the term "physiotherapy" is appropriate for any licensed chiropractor who possesses a certification in Physical Medicine Modalities and Therapeutic Procedures"*. This leads to confusion in the

public and countless complaints from physical therapists to the Physical Therapy Board of Examiners and the Chiropractic Board of Examiners. These complaints trigger investigations by both boards, letters to all parties, discussions and rulings at board meetings, and statements being issued. Therefore the underlying issue is not resolved because of different interpretations within the same law. We hope to resolve this confusion on behalf of the public, the professions, and for the regulatory hours wasted without resolution of the issue.

Respectful to all parties, we request a formal review with Attorney General Opinion stating if any person, or business entity, including those Licensed in Chiropractic, is exempt from the title protection granted to Physical Therapists from Arizona Revised Statute 32-2042 subsection C and D. We believe clarity on the intent and scope of this statute will end years of inconsistent interpretations of the statute by both boards, unnecessary waste of time and resources investigating and addressing these complaints, and most importantly putting an end to the misrepresentation of services to the public.

Thank you for your time and consideration.

On behalf of the Arizona Physical Therapy Association,

A handwritten signature in cursive script that reads "Linda Duke".

Linda Duke, PT, DPT
President