



LIZ MURRILL
ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
70804-9005

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OPINION 24-0067

Ms. Sheri M. Morris
General Counsel
Louisiana Board of Massage Therapy
Daigle Fisse & Kessenich
8900 Bluebonnet Blvd.
Baton Rouge, La. 70810

63-B LICENSING – FOR PROFESSIONS OR
OCCUPATIONS

La. R.S. 37:3552 La. R.S. 37:3553
La. R.S. 22:1009 La. R.S. 22:242
La. R.S. 46:460.51

The Louisiana Board of Massage Therapy is not required to report denials of new and renewal applications or disciplinary actions to the National Practitioner Databank.

Dear Ms. Morris:

You submitted an opinion request raising the question whether the Louisiana Board of Massage Therapy (“Board”) is required to report denials of new and renewal applications and disciplinary actions to the National Practitioner Data Bank (“NPDB”). For the reasons that follow, we find that the Board is not required to report such denials or disciplinary actions.

The National Practitioner Data Bank (NPDB)¹ is a web-based repository of reports containing information on medical malpractice payments and certain adverse actions related to health care practitioners, providers, and suppliers. Established by Congress in 1986, it is a tool to help prevent Medicare, Medicaid, and Insurance fraud and waste by tracking medical practitioners with malpractice and disciplinary actions.

The NPDB is governed by various laws,² including C.R.F. Title 45, Subtitle A, Subchapter A, Part 60 (“National Practitioner Data Bank”). Regulation 45 CFR 60.9 provides:

(a) What actions must be reported. Each state is required to adopt a system of reporting to the NPDB actions, as listed below, which are taken against a health care practitioner, health care entity, provider, or supplier (all as defined in §60.3 of this part).

“Health care practitioner” is defined in 45 CFR 60.3 as “an individual who is licensed or otherwise authorized by a state to provide health care services (or any individual who, without authority, holds himself or herself out to be so licensed or authorized).”

¹ <https://www.npdb.hrsa.gov/>

² Among the laws governing the NPDB are: (1) Section 6403 of the Patient Protection and Affordable Care Act (P.L. 111-148); (2) Title IV of P.L. 99-660, Health Care Quality Improvement Act of 1986, as amended; (3) Section 1921 of the Social Security Act (Section 5(b) of P.L. 100-93; (4) the Medicare and Medicaid Patient and Program Protection Act of 1987, as amended; (5) Section 1128E of the Social Security Act (P.L. 104-191, the Health Insurance Portability and Accountability Act of 1996); and (6) C.R.F. Title 45, Subtitle A, Subchapter A, Part 60 (“National Practitioner Data Bank”).

By contrast, Louisiana massage therapists are not authorized to provide health care services as defined by Louisiana law. The definition of the practice of massage therapy in La. R.S. 37:3552, and the specific terms therapy and therapeutic, when used in the context of massage therapy, specifically exclude “diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.” Further, La. R.S. 37:3553(B)(1) exempts “services performed in hospitals licensed by the state” from the Board’s regulatory authority.

Moreover, the Louisiana Insurance Code in La. R.S. 22:1009 defines “health care provider” as “a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, a dentist licensed to practice dentistry by the Louisiana State Board of Dentistry, or other individual health care practitioner licensed, certified, or registered to perform specified health care services consistent with state law.” The same statute then defines “health care services” as “services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.”

In addition, La. R.S. 22:242(5) defines “health care services” as:

[A]ny services rendered by providers which include but are not limited to medical and surgical care; psychological, optometric, optic, chiropractic, podiatric, nursing, and pharmaceutical services; health education, rehabilitative, and home health services; physical therapy; inpatient and outpatient hospital services; dietary and nutritional services; laboratory and ambulance services; and any other services for the purpose of preventing, alleviating, curing, or healing human illness, injury, or physical disability.

Finally, La. R.S. 46:460.51 defines “healthcare services,” for the purposes of Medicaid Managed Care, as, “the services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.”

Based upon these definitions, the Board does not regulate “health care practitioners” or “health care services,” and therefore, is not required to report disciplinary actions to the NPDB.

This is consistent with the NPDB’s purpose. Massage therapy is not covered by Medicare.³ It is also not generally covered by Medicaid, although it may occasionally be covered as part of hospital treatment.⁴ However, as noted above, the Board cannot regulate services performed in hospitals. Thus any reports from the Board would be superfluous to the NPDB’s purpose.

³ See <https://www.medicare.gov/coverage/massage-therapy>.

⁴ See <https://www.ldh.la.gov/page/medicaid-services>.

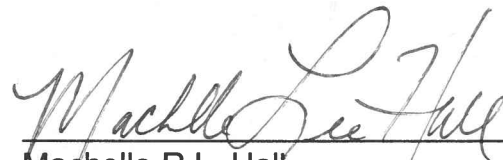
Because the Louisiana Board of Massage Therapy does not regulate "health care practitioners" or "services performed in hospitals," it is not required to report denials of new or renewal applications or disciplinary actions to the NPDB.

We trust that this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

LIZ MURRILL
ATTORNEY GENERAL

By:


Machelle R.L. Hall
Assistant Attorney General