

## Judge Rules that Texas DCs Can Continue to Do Physicals for Student Athletes

Editorial Staff

In April 2002, the University Interscholastic League (UIL) excluded chiropractors from its list of qualified health professionals to perform physical examinations of student athletes. The unilateral decision was made by the nine-member UIL medical advisory board.

The UIL is an extension of the University of Texas Division of Continuing Education, and describes itself as "the oldest and largest high-school association of its kind in the United States." It comprises academic, music and athletic divisions. The athletic division alone encompasses one million junior-high and high-school student participants. The UIL is governed by a legislative council of public school executives elected by member schools. The UIL advisory board was perhaps swayed by Texas Assistant Attorney General Dewey Helmcamp, who told the UIL in a Feb. 4, 2002 letter that "chiropractor" and "physician" were not synonymous terms.

The Texas Chiropractic Association took exception to UIL's exclusion of chiropractors, and filed suit in July 2002. Jennifer Riggs, the attorney for the TCA, asserted that only the Texas Board of Chiropractic Examiners could regulate Texas chiropractors. Riggs told the *Fort Worth Star-Telegram*: "There is no statute and no authority whatsoever to all of a sudden draft on this requirement that only medical doctors can perform these physical exams."

The TCA was subsequently granted a hearing before Judge Charles Campbell of Austin, Texas, to plead for a temporary injunction against the UIL prohibition. During the hearing, Helmcamp was reported testifying that the physical examination of the lymph nodes, eyes and ears was beyond the scope of chiropractic training. On September 9, Judge Campbell declared his findings:

- TCA "has shown a probable right to recover, and that if relief is not granted, they will suffer probably irreparable injury."
- UIL acted in an "arbitrary and capricious manner when it amended certain of its rules relating to physical examinations..."
- UIL established "discriminatory classifications among health care providers that are not rationally related to the purposes of the rulemaking."
- "UIL likely violated sections .... of the Texas Administrative Procedure Act by failing to publish notice of its proposed rules in the *Texas Register*, by failing to provide an opportunity for hearing on the proposed rules and by failing to issue an order providing a reasoned justification for the rules that were adopted by the UIL on or around October 22, 2001."
- "UIL rules and (its) related form likely violate the anti-discrimination provisions set forth in section 21.5(3) of the Texas Insurance Code, by discriminating against chiropractors."

- "The plaintiff's member chiropractors will be irreparably injured if the *status quo* is not preserved and their *de facto* status as legitimate health care providers is not preserved."

Judge Campbell thereby ruled: "UIL shall be and is hereby enjoined from implementing the recently-adopted UIL rules relating to physical examinations insofar as such rules prohibit and prevent doctors of chiropractic from performing such physical examinations and from signing the related UIL Pre-participation Physical Evaluation-Medical History form."

The judge directed the court clerk to issue the temporary injunction against the UIL, and ordered the UIL to appear for trial before the Travis County District Courts on February 3, 2003.

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