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Litch's Law Log

New Jersey Case Addresses Practice Ownership and Management Service Contract Issues

On May 4, 2017, the New Jersey Supreme Court ruled on *Allstate Insurance Company vs. Northfield Medical Center, et al.*¹ The plaintiff Allstate prevailed in the court's decision that upheld a trial court ruling and reversed an appellate court decision. A New York attorney and California chiropractor were found to have created a practice structure designed to circumvent regulatory requirements with respect to the control, ownership, and direction of a medical practice. New Jersey regulations provide that a medical doctor with a plenary scope of practice may not be employed by a licensee with a more limited scope of practice, such as a chiropractor.

Allstate argued that any payments by it for patient services at this practice were unwarranted due to the unlawful business structure. The court held that:

"Defendants extensively promoted a professional practice structure that a fact-finder could reasonably conclude was little more than a sham intended to evade well-established prohibitions and restrictions governing ownership and control of a medical practice by a non-doctor."

The court also upheld the trial court finding that the defendants violated the New Jersey Insurance Fraud Protection Act (IFPA), and awarded Allstate a \$4 million judgement.

The proscribed practice arrangements involved a series of management contracts where:

"The overarching purpose of each of those contracts was to allow the chiropractor-owned management company to extract profits from and maintain control over the affiliated medical corporation."

Specifically:

"The scheme vested bare legal title in a physician. However, the physician, besides being subject to direction and financial control by a chiropractor-owner of a management company, in reality was a stranger to the medical practice and was not operationally in control, having been demonstrated to have "sold" her license to multiple practices utilizing the so-called "Doc-in-the-Box" structure in New Jersey and many other states."

Further, an alleged ignorance of statutes as expressed by the defendants was dismissed:

"Health care services are highly regulated, and professionals engaged in the provision of health care – including persons such as defendants, who undertook to facilitate this activity—are on notice of the legal requirements applicable to their practice and operations."

While the court's decision is only legally binding in the state of New Jersey, where an area of law is new, evolving, or raises unique issues, courts in other states may utilize findings from other state courts to guide their legal reasoning. This case may have an impact on dental practice ownership models, as many states have statutes or regulations prohibiting or limiting non-dentist ownership of a dental practice and also parameters as to how a dental support organization may operate.²

For further information contact Chief Operating Officer and General Counsel C. Scott Litch at 312-337-2169 ext. 29 or slitch@aapd.org.

This column presents a general informational overview of legal issues. It is intended as general guidance rather than legal advice. It is not a substitute for consultation with your own attorney concerning specific circumstances in your dental practice. Mr. Litch does not provide legal representation to individual AAPD members.

¹*Allstate Insurance Company v. Northfield Medical Center PC (076069) (Morris County & statewide). Docket no. A-27-15 (N.J. 2017); Supreme Court of New Jersey; filed May 4, 2017. <https://www.courtlistener.com/opinion/4390103/allstate-insurance-company-v-northfield-medical-center-pc076069/> Readers may be interested in this case analysis from Dentistry Today written by Dr. Michael W. Davis: <http://www.dentistrytoday.com/news/todays-dental-news/item/2703-nj-supreme-court-decision-has-implications-for-the-dso-industry>*

²*For more information about the DSO industry see their professional association's website: <https://www.theadso.org/>. These are sometimes referred to as dental service organizations or management service organizations.*