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Treatment of Extremities by New Jersey Chiropractors

Legal Alert

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Last year a New Jersey court held, in effect, that chiropractors are not permitted to treat any part of the body other than the spine, invalidating a regulation issued by the New Jersey Board of Chiropractic Examiners and calling into question decades of practice by chiropractors in the State. Yesterday, the New Jersey Supreme Court took half a step toward solving the problems created by this decision.

The case arose from a malpractice claim, where the plaintiff asserted that her chiropractor had committed malpractice *per se* by treating her knee which – she alleged – was outside the scope of his license. Defending his treatment, the chiropractor pointed to N.J.A.C. 13:44E-1.1(a), issued by the New Jersey Board of Chiropractic Examiners, which defines the practice of chiropractic as:

That patient health care discipline whose methodology is the adjustment and/or manipulation of the articulations of the spine and *related structures*. . . .[emphasis added]

The lower court held in favor of the plaintiff. In doing so, it found that the regulation issued by the BCE was legally invalid.

The decision created enormous problems for chiropractors across the state. Not only were they potentially exposed to malpractice claims but – this being New Jersey – insurance carriers immediately took advantage of the decision to deny coverage for treatment of extremities. For many chiropractors this represented a severe financial hardship.

On appeal, the plaintiff argued that treatment of extremities is *never* permitted, while the defendant chiropractor argued that such treatment is *always* permitted. The Supreme Court rejected both of those arguments. Instead, it found that chiropractors are permitted to treat extremities – the "related structures" – if and only if there is a "logical nexus between an extra-spinal condition and a condition of the spine.

The "logical nexus" test used by the Supreme Court is likely to cause headaches for chiropractors and insurance carriers alike, as they joust over the relationship between a condition of the spine and a condition of an extremity on a case-by-case basis. From a glass-is-half-full perspective, however, it is clear that *insurance carriers may not categorically deny payment for treatment of extremities*.

If you would like copies of the Supreme Court decision or would like to discuss how these rules would apply to a given situation, please let me know.