



Kentucky Board of Chiropractic Examiners v. Barlow, 2014 Ky. App. LEXIS 117 (Ky. Ct. App. 2014)

Topics Covered: Scope of Practice

Outcome: Very Favorable

Issue

The issue in this “reverse scope of practice” case was whether physicians in Kentucky can review chiropractic records in order to make a medical review of an automobile accident.

AMA Interest

The AMA opposes government interference in the practice of medicine. Further, the AMA encourages full and unrestricted licensure for competent physicians.

Case Summary

GEICO General Insurance Company underwrites automobile insurance in Kentucky. Pursuant to the Kentucky Motor Vehicle Reparations Act, its policies cover payment for reasonable medical expenses. In order to verify the charges associated with an insured’s claimed medical expenses, GEICO may hire an independent medical examiner to help investigate the claim. The medical examiner determines the necessity of the treatment, its relationship to the automobile accident, and the reasonableness of the charges. Charles Barlow, MD and Michael Best, MD are both orthopaedic surgeons, and GEICO regularly hires them to perform this type of medical review. The review includes any claims that may have been made for chiropractic care.

The Chiropractic Board learned that Drs. Barlow and Best were examining chiropractic records as part of their review of medical records for GEICO. It then sued both physicians and GEICO, seeking an injunction which would prohibit Drs. Barlow and Best from reviewing records of chiropractic treatment. The suit asserted that, to the extent they concerned chiropractors, the evaluations of Drs. Barlow and Best were in the nature of peer reviews of chiropractic treatment. As such, they violated KRS 312.200, which requires that peer review of chiropractors can only be performed by licensed chiropractors (which Drs. Barlow and Best were not).

The trial court found that Drs. Barlow and Best were not peers of the chiropractors who may have cared for the insureds. Further, they only evaluated the validity of the claims made by GEICO’s insureds, rather than the quality of care provided by the treating chiropractors. Therefore, the physician reviewers did not provide peer review within the meaning of KRS 312.200. Accordingly, the trial court entered summary judgment in favor of Drs. Barlow and Best and GEICO and against the Chiropractic Board.

The Chiropractic Board appealed the summary judgment to the Kentucky Court of Appeals. The Court of Appeals affirmed, holding that the medical reviews made by Drs. Barlow and Best could not reasonably be deemed peer review of chiropractors.

Litigation Center Involvement

The Litigation Center and the Kentucky Medical Society filed an *amicus* brief in the Kentucky Court of Appeals to support Drs. Barlow and Best.

Kentucky Court of Appeals brief