



June 20, 2018

PCA - ON YOUR BEHALF

Update: State Farm v. Robert J. Cavoto

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In the case of State Farm v. Robert J. Cavoto, a Delaware County Court of Common Pleas Judge recently held that a chiropractor who delegates therapeutic exercises to unlicensed supportive personnel is in violation of the Pennsylvania Chiropractic Practice Act. In other words, according to the opinion rendered by the Judge, a Pennsylvania chiropractor violates state law when the chiropractor prescribes therapeutic exercise and has a CA or staff supervise the patient doing the exercise, even when the chiropractor is in the office suite while the exercises are performed. CA or staff includes athletic trainers, exercise physiologists and other unlicensed individuals.

As background, this case began with a civil action complaint filed by State Farm alleging that Dr. Cavoto improperly delegated therapeutic exercises to his unlicensed staff in violation of the Chiropractic Practice Act. State Farm also alleged that Dr. Cavoto engaged in unlawful marketing practices. Initially, the Judge found in Dr. Cavoto's favor in regards to the delegation issue and in State Farm's favor in regards to the marketing issue. After a State Farm appeal of the delegation issue to the Superior Court, the case was remanded back to the Court of Common Pleas for a new trial. A new trial was held and the Judge issued the current opinion that prohibits chiropractors from delegating therapeutic exercises to unlicensed supportive personnel. Dr. Cavoto appealed that decision and the case is now pending once again in the Superior Court.

When a case is appealed to the Superior Court, there is no new trial. The Superior Court reviews the evidence and testimony of the previously held trial. The Superior Court also reviews and considers legal briefs filed by the parties. In this case, Dr. Cavoto and State Farm submitted their briefs and the PCA also submitted a brief to help support Dr. Cavoto's position on the delegation issue. The Superior Court scheduled oral argument for June 20, 2018. Oral argument is an opportunity for the lawyers to present their case to the Judges. The Judges have an opportunity to question the lawyers on their legal position. Basically, oral argument is an opportunity for the lawyers to make persuasive arguments and for the Judges to ask direct questions to the attorneys.

Prior to the oral argument date, Dr. Cavoto and State Farm settled the case. Interestingly, as part of the settlement, Dr. Cavoto agreed to withdraw his request for oral argument, but the case will proceed. As such, the Superior Court will now decide the delegation issue without the benefit of oral argument. The case will be decided on the legal briefs filed by Dr. Cavoto, State Farm and the PCA. The PCA is troubled by this recent development. The PCA believes that oral argument would have been extremely helpful for the Judges to better understand the issue of delegation and the impact the Court's decision will have on chiropractors in Pennsylvania. The PCA believes that oral argument would have increased the likelihood of a successful outcome for the chiropractic profession. It is expected that a decision will be rendered sometime this summer or early fall. The PCA will announce the Superior Court's decision when a decision is rendered.

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