

N.J. Supreme Court Rules in Favor of Extraspinal Adjusting

COURT RULES IT IS WITHIN SCOPE OF PRACTICE IF THERE IS A NEXUS TO THE SPINE.

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In the malpractice case of *Bedford v Riello*, filed in 2001, Dr. Anthony Riello was accused of deviating from his scope of practice by adjusting a patient's knee without linking the condition to a spinal subluxation. At the conclusion of the trial, the jury ruled in favor of the defendant. However, in April 2007, a New Jersey appellate court overruled the trial court decision, stating that the adjustment of an extraspinal joint was indeed outside the scope of practice for the state's chiropractors.

For years, the New Jersey State Board of Chiropractic Examiners operated under the regulation that allows chiropractors to treat the articulations of the spine "and related structures," thus permitting the adjustment of extraspinal joints. However, after conducting its own independent analysis of the regulation, the appellate court concluded, "The scope of chiropractic practice in New Jersey is limited to adjustments of the spinal column and does not include the adjustment of other joints."

On June 18, 2008, the New Jersey State Supreme Court remanded the case back to trial court, restoring N.J. chiropractors' ability to adjust extraspinal joints as long as the structure being adjusted is "logically connected ... to a spinal condition." In its decision, the Supreme Court stated:

The trial judge held, as a matter of law, that a knee is always a 'related structure' under the rule. The Appellate Division disagreed, concluding, also as a matter of law, that a knee can never be considered a 'related structure' because N.J.S.A. 45:9-14.5 limits chiropractic practice to manipulation of 'the articulations of the spinal column.' We decline to adopt either view. An extremity is neither never nor always a related structure. Under the laws governing chiropractic practice, the issue in every case is whether a condition of the extremity manipulated is logically connected, by cause or effect, to a spinal condition. If it is, the practice is legitimate; if not, it exceeds the authorized scope of chiropractic. The question is one of fact to be resolved on a case-by-case basis.

According to the case summary, prepared by the Office of the Clerk, "The matter must be remanded for a new trial, where the parties may present expert evidence regarding whether a condition of the knee adjusted in this case bore a nexus to a spinal condition, qualifying it as a manipulation of a related structure."

In the case summary, the court makes some important distinctions, stating: "The Court looks to the language of the current statute and regulation to determine if an extra-spinal adjustment may take place and under what circumstances, consistent with those laws. It is clear from the plain language of N.J.A.C. 13:44E-1.1(a) that the rule contemplates adjustments that are not limited to the spine.

Although the term 'related structures' is not defined in the rule and cannot be given ready meaning from the language itself, it is clear that the rule intends to include within the scope of chiropractic practice the adjustment of some structures beyond the articulations of the spine itself. Any other interpretation would render the 'related structures' language superfluous."

The summary goes on to state, "It cannot be determined from the words of the rule itself the import of the term 'related structures.' Therefore, the Court considers an extrinsic source - the long-standing interpretation of that term by the Board. Over the past two decades, the Board has recognized that adjustment of 'related structures' is allowed only to the extent that a condition of the structure adjusted impacts on, contributes to, or has a nexus to a spinal condition or vice versa. In addition, the Board requires that nexus to be 'demonstrated' in the clinical record. Because the interpretation of the agency empowered to administer the laws governing chiropractic is a clear and unequivocal one, that does no violence to the words of the rule, the Court recognizes it here.

"The Legislature's long-standing acquiescence to the Board's interpretation of the Act signals that it did not intend to prohibit all extra-spinal manipulation. It appears the Legislature was satisfied to allow the Board to provide the nuances of the statutory scheme, including permitting extra-spinal adjustments that are related to a spinal condition. As such, there is no prohibition against extra-spinal manipulation in our current law. Whether the adjustment of a structure beyond the spine properly falls within the scope of chiropractic practice depends on whether the adjustment bears a nexus to a condition of the spine."

Association of New Jersey Chiropractors Executive Director, Dr. Sigmund Miller, said, "[The] Supreme Court ruling brings relief to many thousands of patients who have previously benefited from extraspinal adjustments and who were deprived of the continuation of their treatment by the decision in the *Bedford v Riello* case. This ruling permits highly skilled and trained chiropractors to be able to once again perform these procedures so patients can experience the kind of improved quality of life they've come to expect from receiving chiropractic care."

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