



# Columbia Physical Therapy v. Benton Franklin Orthopedic Associates, 168 Wn.2d 421 (Wash. 2010)

Topics Covered: Scope of Practice

## **Outcome: Favorable**

### **Issue**

The issue in this case was whether an orthopedic surgery practice could employ physical therapists under Washington State licensure laws.

### **AMA Interest**

The AMA believes that physicians should be allowed to provide any accepted form of health care to benefit their patients, within the scope of their clinical competence. This should include the employment of allied health care professionals to assist them.

### **Case Summary**

In Washington State, as elsewhere, orthopedic surgery practices often employ physical therapists. In this "reverse scope of practice" lawsuit, a physical therapy practice sued an orthopedic surgery practice and related parties, contending that the orthopedic surgery practice's employment of physical therapists violated Washington State licensure laws. The suit asserted the following claims:

1. Breach of the Washington anti-rebate statute;
2. Breach of the Washington statutes prohibiting unprofessional conduct by physicians;
3. Breach of the Washington consumer fraud and unfair business practices statute;
4. Breach of the Washington statutes governing professional corporations and limited liability companies;
5. Breach of the Washington common law prohibiting the corporate practice of medicine.

Both sides moved for summary judgment. The trial court granted summary judgment to the defendants on the fourth cause of action (pertaining to professional corporations and limited liability companies), denied summary judgment to both parties on the first three causes of action, and refused to rule on the fifth cause of action (pertaining to the corporate practice of medicine).

The trial court certified its rulings for immediate, interlocutory review and stayed further proceedings before it, pending such review. The Washington Supreme Court then granted discretionary review of the trial court's order.

The Washington Supreme Court decided most of the issues in favor of the orthopedic surgery practice. It held that the orthopedic surgery practice could not have violated the corporate practice of medicine doctrine, because physicians are licensed to practice medicine in all its branches and physical therapy is simply a limited aspect of the general practice of medicine. The Supreme Court remanded the case for further adjudication, consistent with its decision.

### **Litigation Center Involvement**

The Litigation Center contributed toward the physicians' defense costs. Also, the Litigation Center and the Washington State Medical Association filed an *amicus* brief to support the orthopedic surgery practice.

Washington Supreme Court brief