

# no-fault newslines

A ROAD MAP FOR MOTOR VEHICLE INSURERS AND OWNERS

11.13.07

## **The Company And The Individual Providing The Service Have To Be Adequately Licensed For The Services To Be “Lawfully Rendered” As Required By The Michigan No Fault Act**

By Brandy Kuretich

In a new case released for publication by the Michigan Court of Appeals, *Healing Place At North Oakland Medical Center v Allstate Ins. Co.*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (Oct. 23, 2007), the Court affirmed the trial court’s grant of summary disposition on a finding that the services were not lawfully rendered because the company did not hold the proper license.

Edgar Naylor, who had a history of substance abuse, suffered an alleged brain injury when he was struck by a car in 1995 while riding a bike. Mr. Naylor received treatment for this alleged brain injury from New Start, Inc. and The Healing Place, Ltd. Nine years after the accident and after having served a several year prison sentence, Mr. Naylor checked himself into the program offered by New Start, The Healing Place and The Healing Place at North Oakland Medical Center (all of whom were Plaintiffs in this lawsuit). Mr. Naylor received treatment for brain injury, psychiatric disorders and substance abuse. Allstate denied the claims that were submitted by these facilities and the lawsuit for first party no fault benefits followed.

Allstate moved for summary disposition arguing, inter alia, that the Plaintiffs were not properly licensed to provide the services they rendered. Therefore, the services were not “lawfully rendered” as required by MCL § 500.3157. Allstate argued that The Healing Place at North Oakland Medical Center had to be licensed as a psychiatric hospital unit and that New Start had to be licensed to operate an adult foster care facility. Allstate provided documentary evidence that

### SECRET WARDLE NOTES:

Medical services are not “lawfully rendered” as required by the No Fault Statute if either the individual providing the services or the health care facility is not properly licensed. Information regarding licensures can be obtained via the internet at [Michigan.gov/HOME](http://Michigan.gov/HOME) (Bureau of Commercial Services).

## CONTINUED...

The Healing Place at North Oakland Medical Center had a residential substance abuse license but not a license to operate a psychiatric unit. Allstate also provided documentary evidence that New Start had a license to operate as an outpatient substance abuse program but not an adult foster care facility.

MCL § 500.3157 provides that “a physician, hospital, clinic or other person or institution lawfully rendering treatment to an injured person . . . may charge a reasonable amount. . . .” The Court held, as a matter of law, that the services provided by these Plaintiffs were not “lawfully rendered” as required by MCL § 500.3157 because they were not licensed to perform the services provided.

The Court stated that there was no basis to conclude that MCL § 500.3157 permitted an institution to avoid licensure requirements on the basis that the employee performing the treatment for the institution was licensed. The Court held that MCL § 500.3157 requires that “before compensation for providing reasonable and necessary services can be obtained, the provider of treatment, whether a natural person or an institution, must be licensed in order to be ‘lawfully rendering treatment.’ If both the individual and the institution were each required to be licensed and either was not, the ‘lawfully render[ed]’ requirement is unsatisfied.”

The Court distinguished this case from *Miller v Allstate Ins Co (On Remand)*, \_\_\_ Mich App \_\_\_, \_\_\_ NW2d \_\_\_ (2007). In *Miller*, the issue was whether treatment provided by a company that had defects in its corporate structure could result in the treatment being deemed not “lawfully rendered.” Therefore, according to this Court, the facility’s failure to have the proper license will result in the treatment being unlawfully rendered while a failure to have the proper corporate structure will not. As such, no fault insurers should verify the licenses of both the facility and the individual to determine if the services are “lawfully rendered” and, thus, compensable under the Michigan No Fault Act.

## CONTACT US

### Farmington Hills

30903 Northwestern Highway, P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500 Fax: 248-851-2158

### Mt. Clemens

94 Macomb Place, Mt. Clemens, MI 48083-5651  
Tel: 586-465-7180 Fax: 586-465-0673

### Lansing

6639 Centurion Drive, Ste. 130, Lansing, MI 48917  
Tel: 517-886-1224 Fax: 517-886-9284

### Grand Rapids

2025 East Beltline, S.E., Ste. 209, Grand Rapids, MI 49546  
Tel: 616-285-0143 Fax: 616-285-0145

### Champaign, IL

2919 Crossing Court, Ste. 11, Champaign, IL 61822-6183  
Tel: 217-378-8002 Fax: 217-378-8003

[www.secrestwardle.com](http://www.secrestwardle.com)

SECRET  
SW  
WARDLE

Copyright 2007 Secrest, Wardle, Lynch, Hampton,  
Truex and Morley, P.C.

This newsletter is published for the purpose of providing information and does not constitute legal advice and should not be considered as such. This newsletter or any portion of this newsletter is not to be distributed or copied without the express written consent of Secrest Wardle.

## CONTRIBUTORS

### Motor Vehicle Litigation Practice Group Chair

John H. Cowley, Jr.

### Editor

Erene Golematis

We welcome your questions and comments.

## OTHER MATERIALS

If you would like to be on the distribution list for No-Fault Newline, or for newsletters pertaining to any of our other practice groups, please contact Secrest Wardle Marketing at [marketing@secrestwardle.com](mailto:marketing@secrestwardle.com), or 248-539-2850.

### Other newsletters include:

**Benchmarks** – Navigating the hazards of legal malpractice  
**Blueprints** – Mapping legal solutions for the construction industry  
**Boundaries** – A guide for property owners and insurers in a litigious society  
**Community Watch** – Breaking developments in governmental litigation  
**Contingencies** – A guide for dealing with catastrophic property loss  
**Fair Use** – Protecting ideas in a competitive world  
**In the Margin** – Charting legal trends affecting businesses  
**Industry Line** – Managing the hazards of environmental toxic tort litigation  
**Landowners’ Alert** – Defense strategies for property owners and managers  
**On the Beat** – Responding to litigation affecting law enforcement  
**On the Job** – Tracking developments in employment law  
**Safeguards** – Helping insurers protect their clients  
**State of the Art** – Exploring the changing face of product liability  
**Structures** – A framework for defending architects and engineers  
**Vital Signs** – Diagnosing the changing state of medical malpractice and nursing home liability  
**Update Illinois** - Current trends in Illinois law