

Argued remotely and won reversal of a \$15 million medical malpractice jury verdict in the Colorado Court of Appeals. The court ruled that the Corporate Practice of Medicine Doctrine precluded the plaintiff's claims against our surgery center client.

2020

WTO lawyers delivered oral arguments remotely to win reversal of a \$15 million jury verdict in the Colorado Court of Appeals for a surgery center facing negligence allegations. The plaintiff brought the claims after receiving epidural injections that led to complications including paraplegia.

The plaintiff claimed that WTO's client violated federal regulations requiring a safe surgery center, and that they should have prevented the doctor from prescribing and administering the off-label drug used in the injections. The plaintiff further claimed that the surgery center should have obtained the plaintiff's informed consent that the drug was being used off-label. A jury initially agreed and awarded a plaintiff's verdict.

In the Court of Appeals, however, WTO successfully argued that the Corporate Practice of Medicine Doctrine precluded the plaintiff's negligence claim against the surgery center.

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Kevin J. Kuhn
Partner

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Because medical corporations or businesses—such as a surgery center or hospital network—are not authorized to practice medicine or obtain informed consent, they therefore cannot be sued for negligence in the way a doctor can.

The doctrine is rooted in the idea that doctors, not their employers, have the sole authority to make medical recommendations and provide informed consent to their patients. In its ruling, the court observed that the case should never have gone to a jury in the first place, and eliminated the possibility of another trial. This ruling is not only a win for WTO's client, but the entire U.S. medical industry as a whole.