

FOR IMMEDIATE RELEASE:
February 7, 2019

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Superintendent Franchini issues statement after District Court judge rules in Patients Compensation Fund complaint

Santa Fe, NM – A recent decision was issued by NM District Court Judge David K. Thomson in *McAneny et al. v. Office of Superintendent of Insurance and Superintendent John Franchini* ([No. D-101-CV-2017-02140](#)). Through that lawsuit, four doctors alleged that the Superintendent’s action to allow hospitals into the PCF was not compliant with the law and the hospitals should be removed from the fund.

Consistent with predecessors, Superintendent Franchini followed the procedures outlined within the Medical Malpractice Act for admitting applicants into the PCF, and OSI is pleased the judgment affirmed that “no specific action of the Superintendent was wrong.”

Unfortunately, the judgment also effectively cancels coverage for many participants in the PCF, potentially affecting hundreds of healthcare providers and any subsequent injured patients of those participants.

“The judgment also voids the coverage of any new healthcare providers admitted into the PCF after the doctors filed their lawsuit on July 28, 2017,” said Superintendent Franchini. “We do not believe it was the judge’s intent to remove participants’ coverage and effectively eliminate injured patients’ protections under the PCF. However, this judgment creates many questions as to how participants who relied on their PCF coverage, any surcharges paid, and any injured patients who have current claims or those who need to file a claim are affected.”

The Superintendent’s office has already begun drafting rules in response to the judgment and is working to ensure the process progresses as expeditiously as possible. OSI has attempted to work with the Plaintiffs’ counsel to determine resolutions that will be least disruptive for excluded PCF participants, injured patients, and all stakeholders involved. With no response from the Plaintiffs’ counsel, OSI has elected to put the PCF participants’ needs first and will be moving forward with filing a motion to stay the judgment.

“We remain dedicated to the service of the participants and beneficiaries of the PCF and our teams are working to address the many practical issues as a result of this judgment and appreciate your patience as we move towards equitable solutions.”

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