

ALERT

Professional Services Exclusion Applies to Global Administrative Decision

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Applying Texas law, the United States District Court for the Southern District of Texas has held that a professional services exclusion precludes coverage where an underlying complaint alleges that an insured prison-management company denied inmates scheduled medications. *LCS Corrections Servs., Inc. v. Lexington Ins. Co.*, 2014 WL 1787771 (S.D. Tex. May 5, 2014).

The underlying case, brought by the estate of a prisoner who died in the insured's custody, alleged both medical malpractice and civil rights causes of action. After defending the insured, pursuant to a healthcare professional liability policy, in a trial regarding the medical malpractice allegations, the insurer disclaimed coverage for a subsequent civil rights trial pursuant to a "Professional Liability Exclusion" in a separate umbrella policy. The exclusion provided that "this policy shall not apply to liability arising out of the rendering of or failure to render professional services, or any error or omission, malpractice or mistake of a professional nature committed by or on behalf of the 'Insured' in the conduct of any of the 'Insured's' business activities."

In the coverage litigation that followed, the court held that the professional services exclusion precluded coverage for the underlying claim. The court rejected the policyholder's argument that the exclusion should not apply because the underlying complaint addressed administrative rather than professional conduct in light of a "global administrative decision to deprive inmates of ... medical care." In arguing that the underlying complaint challenged a global administrative decision, the insured cited its allegations that "[t]here was no professional or medical discretion exercised in the failure to supply [the underlying claimant] his medications" and that "it was

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[the insured's] company policy ... administratively administered by non-medical and non-professional management personnel ... not to give inmates scheduled medications." The court found the asserted distinction unavailing, holding that, under the plain meaning of the umbrella policy, where an administrative decision resulted in a "failure to render professional services," the professional services exclusion applied.

The opinion is available [here](#).