



Osteoporotic Vertebral Fracture

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Allegation

Patient sued defendant chiropractor after patient presented for mid back pain and spasms lasting several weeks. Patient claims that chiropractor caused vertebral fracture of an osteoporotic T7-T8 vertebra, causing the condition to worsen, requiring vertebroplasty. Patient states she is now in continued pain and spasms with difficulty sitting. Patient also sued her family physician and a second chiropractor that she had seen subsequently.

Case Description

The patient, a 48-year-old female computer programmer, presented to the chiropractic office of Dr. J with generalized mid back pain at lower level of shoulder blades that bothers her mostly during the latter part of the day. Occasionally, deep inhalation will aggravate the pain as well. NSAIDS, heating pad and massages afforded no relief. The patient had been on low-level corticosteroids for rheumatoid arthritis as well as prior parathyroid gland removal for a cancerous lesion. Prior to presenting to Dr. J's office, the patient had been physically fit, doing yoga twice a week as well as taking daily walks during her work lunch break. The patient states that after being treated by Dr. J she is now limited in her daily activities and has great difficulty performing her typical work duties.

The patient indicates that on her third visit to the chiropractor's office Dr. J pushed on her mid back while she was lying on her stomach. She stated that she felt sharp pain and spasms, yelled out in pain and then had difficulty taking a deep breath. According to the patient, Dr. J placed a cold pack on the area with TENS, telling her that it was a deep spasm and the therapy would relieve some of the pain and spasms. The pain continued to be constant and so the patient went to her family doctor, Dr. M, who prescribed her muscle relaxants. However, the pain still continued so she saw another chiropractor, Dr. H, who referred her for an MRI of the thoracic spine revealing end plate fractures of the T7 and T8 vertebrae with low T score, relating to osteoporosis. Dr. H then referred her to a spine orthopedic, who performed successful vertebroplasty on the two levels.

In the case against Dr. J, he stated that the patient signed an informed consent form on her first visit which he had in his file. He also stated that he did perform a history in which the patient told him of her rheumatoid arthritis history, which he noted. He indicated that he was gentle in his diversified treatment, applying heat and massaging the area prior to gently manipulating the mid back. Dr. J felt that the patient had experienced "deep spasms" after the treatment and that the subluxation needed to be reduced to improve function and ranges of motion.



Contributing Risk Factors

- Corticosteroid use for Rheumatoid Arthritis
- Parathyroid gland removal (calcium metabolism)
- Possible age-related osteoporosis
- Various types of manipulation have different possible risk factors

Resolution

The case went to trial where the patient was awarded over \$200,000 by jury verdict. The jury ruled Dr. J to be guilty of deviating from the standard of care by not performing a more thorough prior health history which would have revealed the corticosteroid use that is commonly associated with causing osteoporosis. Additionally, while Dr. J had the patient sign a consent form on her first visit, the trial revealed that he did not fully discuss the range of side effects that might be possible with chiropractic treatment.

The family physician, Dr. M, was also sued for not performing any informed consent and not properly referring the patient immediately for diagnostic studies to further evaluate the patient's condition. Amount of settlement in Dr. M's case was not disclosed. The case against the second chiropractor, Dr. H, was dismissed with no cause.

Conclusion

Malpractice litigation is a systematic process whereby chiropractic care is examined to determine whether the appropriate standard of care was met, and if not, whether the failure resulted in a compensable injury to the patient. Using hindsight and risk tools, we can identify some practices Dr. J might have done differently in order to avoid inappropriate treatment.

1. Patient's Full History

The importance of a complete and accurate health history as well as medication history, cannot be overemphasized. Unfortunately, in many chiropractic practices, the completed history form receives a cursory review by the chiropractor – if nothing “jumps out,” the chiropractor might proceed with examination and treatment.

2. Proper Informed Consent

The second liability concern in this case relates to informed consent to treat. Informed consent often is misunderstood as a legal form that must be completed before a doctor can provide care. In actuality, informed consent is an educational process undertaken to ensure that the patient has sufficient information to reasonably decide on one of the proposed treatment options. If the patient is properly informed of his or her condition, the recommended treatment, the possible benefits of the treatment, the reasonable alternatives including not moving forward with treatment, as well as the risks, then he or she can make an informed decision.



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Dr. Clarke graduated from Logan College of Chiropractic in St. Louis and has practiced in New Jersey for over 30 years. He's treated many patient types, from World Champion boxers to professional athletes, and was also among the first chiropractic physicians to get to Ground Zero after the 9/11 attacks to care for injured emergency responders. Dr. Clarke served as the President of the Association of New Jersey Chiropractors from 2007-2011 and was reelected in 2016. He currently serves on the ANJC State Board of Directors and has been Legislative Chairman since 2004. He also works as a chiropractic physician and clinic director at High Street Rehab in Nutley, New Jersey.

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