

# Don't Forget Quality X-rays, Records, and a Consent for Minors

## FACTS

Dennis Semlow, DC

In June of 1986, Matt Jones, a 15-year-old male, entered Dr. Terry's office, accompanied by his mother and stepfather. Both the mother and stepfather are patients of Dr. Terry, and Mrs. Jones asked Dr. Terry to evaluate their son, Matt. The Jones family is insured with State Assistance. Dr. Terry performed a cursory examination and proceeded to take an anterior/posterior (AP) pelvis, AP lumbosacral, and lateral lumbosacral. Matt's history was obtained entirely from his mother. She explained how severely Matt had been suffering. Matt was very vague to the whereabouts and the duration of his pain. Dr. Terry's examination revealed a posterior right movement of the 4th lumbar vertebra. Dr. Terry explained that he would not administer care today but would on the next visit. Matt was seen three times by Dr. Terry. Each time Matt was in the office he was accompanied by his mother. Dr. Terry's admission was that no care was ever administered to Matt because there was not a formal right of guardian signed.

### Discussion

Matt was a 15-year-old minor who lived with his 42-year-old mother and 19-year-old stepfather. Matt's genetic father lived two states away and had legal guardianship. The quality of Dr. Terry's x-rays was not good enough to reveal the upper lumbar vertebra where there was a gibus deformity or hemivertebra. History revealed that Matt had a bicycle accident four year before. He hurt himself while attempting to jump off a ramp. Records also revealed that Matt was required to do extremely heavy labor and work activity at home with his stepfather and mother.

Jones alleged that Dr. Terry caused a herniated disc by the use of a "lumbar roll manipulation" on his lower back.

The plaintiff's chiropractic expert stated the deviations from the standards of care were:

1. Records were not kept within the standard of practice; there was no significant medical history, nor were there significant orthopedic and neurological examinations; progress notes were not kept in SOAP format.
2. Dr. Terry caused a herniated disc.
3. Dr. Terry, through a lumbar roll manipulation, caused a fragment of a degenerated disc to break off and to migrate to the level of the L1 and L2 innerspace.
4. That any torsional or forceful adjustment by Dr. Terry would be contraindicated in light of the pre-existing congenital deformity.

5. The treatment should have never been established because records and examination were inadequate and unreasonable.

Plaintiff's orthopedic expert revealed:

1. There was malformation of the L2 vertebra.
2. Computerized Axial Tomography (CAT) scan showed a free fragment of unidentifiable material.
3. Unable to tell the age of the malformation of L2, "it was ancient."
4. Felt patient was moderately disabled because of the malformation of L2.
5. Orthopedic expert could not testify as to the cause and effect relationship between chiropractic treatment and the injury. The only thing he could comment on was that, hypothetically, if the chiropractor hurt the patient, that could account for the symptoms.

#### Outcome

The defendant, in this case, was very lucky. The doctor had released the original x-rays to the plaintiff's attorney without keeping a copy. The x-rays were of poor quality and the records were poor as well. The poor quality of the plaintiff's chiropractic expert made his testimony appear too unbelievable to the jury. The defense presentation was presented in a clear and concise manner and was sensible and believable to the jury. The defendant was found "not guilty" but the jury asked to give a side note that stated, "In the future, the defendant doctor is to keep better records."

#### Prevention

Clear, readable x-rays are a must, with all osseous structures included. If it is important to take quality x-rays on initial care, it is just as important on the second day if the original films are not of good quality. Legible records are also a must. If treating a minor, you must obtain parental consent.

This case study is provided from the claim files of the OUM Group Chiropractor Program. The study is based on actual incidents, however, circumstances have been changed.

*Dennis Semlow, D.C.  
Freemont, Michigan*

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