



PERSONAL INJURY / LEGAL

## Lumbar Surgery After Spinal Manipulation

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The allegation: Chiropractor aggravated pre-existing lumbar degenerative condition causing patient to undergo spinal surgery/decompression. Patient states they are in constant pain, and injuries caused by chiropractor are permanent and non-resolving.

### Case Description

The patient, a 48-year-old male warehouse worker, treated with a chiropractor, Dr. A., for longstanding, generalized lower back pain and spasms that increased with sitting and bending at the waist. The patient had seen an orthopedic doctor in the past, as well as had physical therapy with minimal results. The patient received X-rays from Dr. A that revealed advanced degeneration at the L5-S1 level.

After the second week of chiropractic care (TENS therapy, stretching and flexion distraction), the patient began to experience increased lower back pain with weakness and difficulty standing or sitting for extended periods of time.



The patient claimed Dr. A failed to obtain informed consent that chiropractic care could possibly worsen the condition, did not refer immediately for MRI studies or send for medical care. The patient went to a spine orthopedic surgeon, Dr. V, who performed spinal decompression surgery with fusion at that level.

The patient alleged that Dr. A knew from taking the lumbar X-rays that there were advanced degenerative problems, and that the area was weak and prone to aggravation/exacerbation. The patient also alleged that Dr. A should have warned him that this treatment could possibly cause the problems he has and that it could lead to surgery.

Dr. A. had the patient sign an informed-consent form at the beginning of care, as well as discussed with the patient that although chiropractic care is extremely safe, all medical treatments and therapies could have some risk involved, albeit minor. Dr. A stated that the flexion-distraction treatment is a gentle procedure that has been utilized by thousands of chiropractors throughout the country and performed for 20 years in Dr. A's office without incident. Dr. A's records did not indicate any abnormal red flags that would have precluded this type of treatment and noted good response.

#### Contributing Risk Factors

- The patient is a warehouse worker; an occupation that involves bending, lifting and carrying heavy objects.
- The patient had prior minor results involving treatment with an orthopedic doctor and physical therapy.
- Age of patient: 48-year-old male.

#### Case Resolution

The patient sued Dr. A for negligence and made a demand for loss of work income, deviation from

standard of care, pain and suffering, as well as spousal problems related to the pain and distress related to the problems alleged against Dr. A.

Dr. A refused to settle the claim, maintaining that he followed the appropriate standard of care that other, similar chiropractors would follow. He explained and recorded his informed-consent discussion with the patient and stated that the pre-existing problems the patient presented with would have exacerbated at any time whether at work, home or in Dr. A's office.

The case went to trial and after four days, the jury returned a defense verdict for Dr. A, citing that the patient being a warehouse worker, which involved bending, lifting and carrying objects, had a history of lower back problems with prior orthopedic and physical therapy care and had minimal results.

The jury also found that Dr. A had explained informed consent to the patient, the patient had signed a document attesting to it, and Dr. A had documented in the treatment notes that informed consent was performed. In the end, the jury felt Dr. A. did not deviate from the standard of care, as the patient was given explanation of home care / stretching regimen, with indications and contraindications noted.

### Practice Takeaway

The purpose of informed consent is to allow patients the opportunity to consider and choose the treatment option that they prefer, considering the risks, anticipated benefits and more. In this case, the patient's frustration appears to result from some misunderstanding of his overall clinical situation. And as Dr. A documented doing so, the best opportunity to educate the patient regarding the circumstances of their case is during the informed-consent conversation, prior to treatment.

Nothing can replace the value of a face-to-face meeting, and well-conducted informed-consent conversations have demonstrated more realistic patient expectations of treatment.

In chiropractic, as in all aspects of life, so often "the devil is in the details." As this case illustrates, thorough documentation and good communication can be critical components of quality patient care. Disciplining oneself to do the little things well can contribute to satisfying and successful patient care experiences.

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MAY 2020