

# Friends Sue Friends, Malpractice Is Malpractice

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## Facts:

Mr. Bill Reagan, a 28-year-old, light auto mechanic, first saw Dr. Shed professionally in May 1985. Dr. Shed was a new associate doctor to the Wayland Clinic, headed by Dr. T.S. Wayland. Dr. Wayland and Bill Reagan were acquainted socially. They both had the same love -- old classic cars.

Bill Reagan was, apparently, hurt at work while trying to remove a transmission from a car. Dr. Shed took a history and proceeded with an examination to determine the extent of Mr. Reagan's problems, consisting of an orthopedic and neurological examination. This confirmed the need for further diagnostic tests. An AP and lateral lumbar, lumbar obliques, and an AP of the pelvis were taken, which confirmed the osseous component of the biomechanical lesion (vertebral subluxation complex). Mr. Reagan's symptoms consisted of low back pain, decreased range of motion, and radicular symptoms into the right leg. His pain appeared worse or almost relentless in the evenings.

Dr. Shed diagnosed an L3, L5, S1 subluxation complex, with radiculitis, and a sprain/strain injury. Dr. Shed advised Mr. Reagan to take two weeks off work for care and rehabilitation. Bill Reagan said to Dr. Shed, "As a friend, I don't want you to take me off work for two weeks. It's our busy time of the year, and if I take this much time off, they will fire me."

Dr. Shed reluctantly agreed and returned Bill Reagan back to work three days later. Being a mechanic, Mr. Reagan worked late hours and was only able to return to the clinic on Saturdays to see Dr. Shed. In the pursuing five weeks, Mr. Reagan continued to develop further low back and leg pain, now with an associated foot drop. Mr. Reagan discontinued care and sought help from a local medical doctor. Four months later, Dr. Shed received a letter from Mr. Reagan's attorney, demanding \$500,000 for a prolapsed disc, pain and suffering, financial loss, and a permanent disability injury.

## Outcome:

Hospital records, including a CT scan, showed a proliferated and prolapse of the L5, S1 disc space. This disc was reduced surgically. Dr. Shed never entered in his records his recommendation that Mr. Reagan stay off work for two weeks. It also never showed that Mr. Reagan had not complied with care and only returned on Saturdays.

Suit was brought against Dr. Shed, Dr. Wayland, the director of the clinic, and the clinic for a total of \$500,000. Coincidentally, at the time of the alleged incident, Dr. Shed had not yet purchased insurance. Judgment was given for the plaintiff in the amount of \$150,000. Since Dr. Shed was non-collectible, the financial burden fell to Dr. Wayland and the corporation. Dr. Wayland never saw or attended to Mr. Reagan on any occasion.

## Prevention:

The patient, whether friend or family, must be cared for with the same care and dignity as anyone else. If recommendations are given, they must be entered into the record, not just given orally. If a patient is not complying with care guidelines, he should either be dismissed or referred for further care.

As to the question of liability coverage: If the director is not personally paying premiums for the associate, and the associate is paying them, a copy of payment should be presented to the director, insuring adequate coverage.

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

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