

Malpractice Cases

STROKE VICTIM BLAMES CHIROPRACTOR

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Facts:

One week after 22-year-old Richard Ryan suffered a head injury in a minor motorcycle accident, he visited Dr. Patrick Kusske. Ryan complained of head and neck pain, and numbness in his right arm.

Dr. Kusske took a Davis series set of x-rays. The doctor diagnosed a neck sprain and informed Ryan that he would need about ten weeks of treatment. The first treatment included spinal adjustment, muscle massage, and moist heat packs.

Eight days later, Ryan returned for another treatment in the morning. That afternoon, however, the patient telephoned Dr. Kusske saying that he was in extreme pain, had trouble walking, and had been vomiting. Ryan's speech was slurred, and he sounded quite disoriented. Dr. Kusske told the patient to come directly to the office.

Ryan couldn't drive, so he called a friend to take him to Dr. Kusske's office. They arrived 30 minutes later and after a brief examination, the doctor instructed them to go immediately to the hospital, which was about 25 minutes away.

The emergency room neurologist diagnosed a large intracerebral hemorrhage and recommended immediate surgery, which was performed that evening.

Outcome:

Ryan suffered permanent partial paralysis to the right side of his body. Unable to compete in track meets, Ryan lost his athletic scholarship and was forced to leave college. He brought suit against Dr. Kusske, alleging that Kusske's treatment caused the ruptured blood vessel, and that the chiropractor had failed to diagnose the neurological problem and to make a timely referral to a neurologist. Ryan demanded \$950,000 as compensation.

The claims investigation showed that the experts had differing opinions on a number of issues.

Our chiropractic expert for the plaintiff said that Kusske's treatment fell below the standard of care because -- considering the patient's head injury -- an immediate referral to a neurologist after the first visit would have been appropriate. The same expert also felt that Dr. Kusske should have sent the patient to the hospital at the time of the telephone call, instead of having him come to the office first.

An expert for the defense (also a chiropractor) felt Dr. Kusske had not deviated from the standard of care by failing to refer the patient immediately.

He advised, however, that Dr. Kusske should have used several screening procedures before treatment

-- particularly those for detecting impaired cerebrovascular circulation.

A neurologist for the plaintiff attributed the hematoma directly to Dr. Kusske's chiropractic adjustment, but then admitted that the stroke could have been a result of a blow to the head (such as the motorcycle accident injury).

A neurological surgeon stated that the hematoma did not exist before the day he performed surgery.

Because of the conflicting testimony, the liability was assessed as a "substantial exposure." Considering the seriousness of the injury, it was felt that a jury would be extremely sympathetic to a 22-year-old athlete who had been forced to quit school. Subsequently, the case settled out of court for \$200,000.

Prevention:

Consultant by a neurologist is advisable when a patient with a head injury is needing any treatment.

When any possibility of stroke is present, thorough screening, such as George's cerebrovascular functional test is absolutely necessary.

Initial treatment should have been scheduled every two or three days, as opposed to a week apart, so the patient's progress could have been monitored carefully.

Patients who exhibit symptoms of stroke (such as the symptoms Ryan described over the telephone) should be sent to a hospital immediately.

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

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