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Orthopedic Surgery Sample Case

Possibly unnecessary lumbar fusion operation and superficial wound infection.

According to the Surgeon, Dr. #1, this patient was a failure of conservative therapy by her private physician, Dr. #2, whose records I have not seen nor do I have any details of that therapy. If that therapy was not "reasonable," the operation for pain should not have occurred, and therefore there would not be any superficial chronic wound infection.

Dr. #1 believed her back had disease based on the MRI, however that MRI, on 9/21 said: "Mild multilevel degenerative facet disease," but "No significant change in the degenerative disc disease at L5/S1 level," so why operate unless true conservative therapy was tried and was unsuccessful? The operation's justification by Dr. #1 was to prevent slipping of one bone over another (listhesis), but that "crystal ball" approach is too aggressive.

So was the operation justified? All the above concerns are relevant.

With a lumbar fusion, especially with the use of the "cage" to aid the fusion, preventive (prophylactic) antibiotics with an intravenous dose just prior to surgery, and for a few postoperative doses is the standard of care. She received the broad-spectrum antibiotic Ansef before and after surgery on 1/6 and 1/7.

While in the Hospital there was no wound evidence of infection. Afterward she had a superficial wound infection which was caused by the germ Staphylococcusaureus that got into the wound in the operating room, and was treated properly in the office with antibiotics and wound care. When that did not cause it to heal, she was hospitalized from 3/9 through 3/10. She had a wound cleansing (débridement) operation that found nothing unusual except this chronic infection. She received long-term intravenous antibiotics, and good follow-up wound care.

A wound infection of this nature is an unfortunate maloccurrence and not negligence, unless the operation was unnecessary as I noted above, or unless there were failures of infection prevention procedures in the hospital, or if Dr. #1 was a "carrier" of the Staphylococcus germ (in his nose and throat). To follow up on this issue requires obtaining the infectious disease protocols and rates of infection that were present in January in the Hospital #1. Was the infection rate too high at that time? How did they investigate this infection and what did they find as a possible cause? Were there breaches in sterilization practices?

The bone fusion site did not become infected. Therefore the damages are limited.

If you want to pursue this case, the preoperative therapy needs to be evaluated, as does the infectious disease procedures as I noted.

I suggest that the patient be evaluated by a local Clinical Psychologist with courtroom experience for any residual emotional (psychological) damages. Administration of standardized tests such as the M.M.P.I. (Minnesota Muliphasic Inventory) which have been given to millions of people would further support that opinion before a jury.