PICA PODIATRIC MALPRACTICE INSURANCE

FALL 2025
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CASE **CLOSED**

SUMMARY: The patient came to the insured for a second opinion, seeking surgical options in lieu of an amputation. Charcot reconstructive surgery was performed. Post-operatively, the patient developed complications and later underwent a below-the-knee amputation.

The Patient and Condition

The patient was a male in his early 50s with severe comorbidities of obesity, neuropathy, diabetes, and congestive heart failure. The patient had bilateral Charcot deformities with the right extremity greater than the left and collapse of the talus. The patient had complete instability in both ankles, which caused difficulty standing and walking. He had previously attempted bracing and Charcot walking boots without success.

The Treatment

The insured recommended a talectomy with tibiocalcaneal fusion and calcaneocuboid joint fusion with Achilles lengthening at the right lower extremity. Risks of the procedure were discussed with the patient, including infection and loss of toe or foot, due to the patient's diabetes and neuropathy. A below-the-knee amputation was also discussed as an option, but the patient wanted to avoid amputation so the insured performed reconstructive surgery as a salvage attempt.

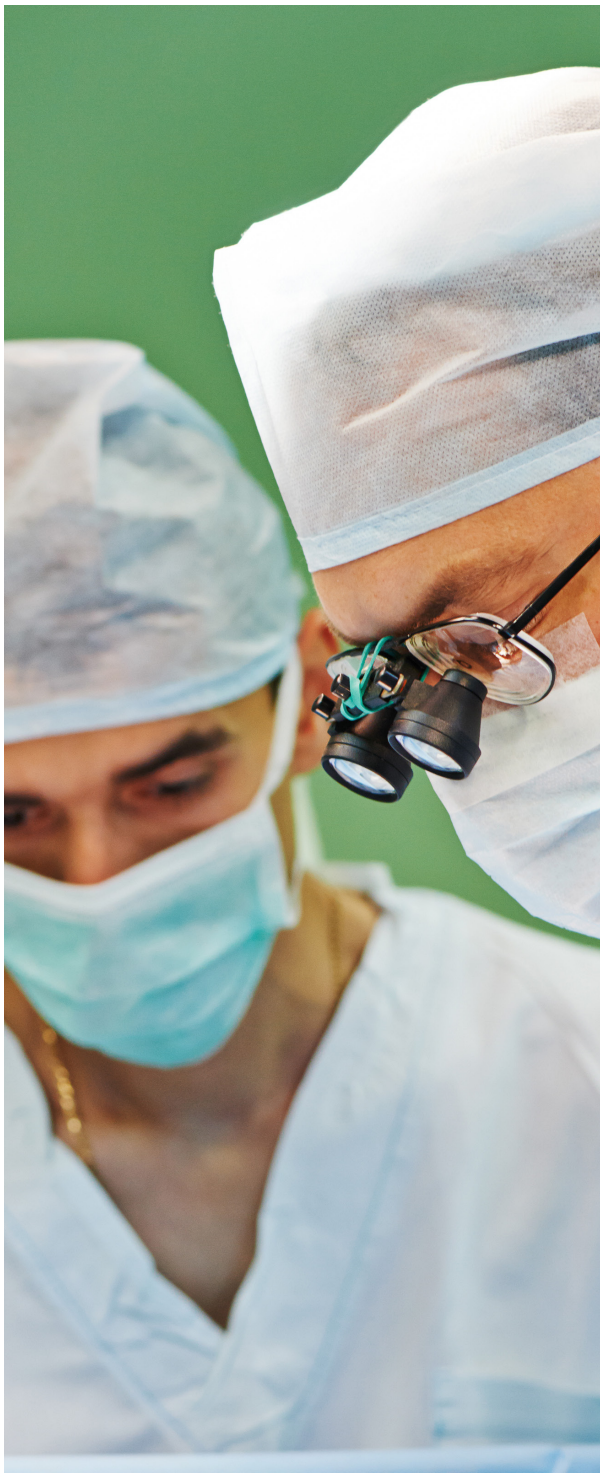
The Injury

The patient developed a post-operative infection resulting in the amputation of his right foot and, ultimately, a below-the-knee amputation.

The Allegations

The primary allegations in this case included:

- Failure to obtain informed consent.
- Failure to diagnose and treat the patient's post-operative infection.
- As a proximate cause of the alleged departures, the patient required a below-the-knee amputation.



The Defense

The case went to trial. The prosecution claimed that the insured was insufficiently trained in the reconstructive procedures. But the defense used the insured's training logs to illustrate the insured's prior experience.

Regarding lack of informed consent, the insured testified that he obtained adequate informed consent, and the consent form was signed and witnessed. Going into surgery, the patient was advised that he was at high-risk of complications because of diabetes and his deteriorating condition.

Regarding allegations related to post-operative infection, there was no infection at the last visit with the insured, and it occurred five months after the last visit. The defense argued that the complications were not the result of any wrongdoing by the insured.

The Outcome

We received a defense verdict in favor of the insured.

Risk Management Tips

- **Conduct a detailed informed consent conversation and document it carefully.** The insured in this case used a generic consent form. A more specific consent form could have provided more detail regarding potential risks and complications.

- **Stay aware of state standards regarding informed consent and err on the side of caution.** In this case, the prosecution argued that the insured's lack of experience with the specific surgery should have been disclosed; however, the informed consent standard in this state did not require the insured to disclose personal experience. If the lack of experience would influence a reasonable patient's decision, then consider discussing this during the informed consent conversation.

- **During the informed consent process, focus on what a reasonable patient would want to know.** Include the nature and purpose of the procedure, the risks, benefits, alternatives, and probability of success.

- **Discuss expectations and known risks with the patient regarding the procedures.** Charcot deformities can be challenging and problematic, difficult to repair, and can be fraught with complications – including amputation – due to the complex nature of the condition.

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