PICA PODIATRIC MALPRACTICE INSURANCE

WINTER 2024
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CASE **CLOSED**

SUMMARY: The patient had a history of diabetes and hypertension. The insured treated the patient on several occasions and made multiple referrals and recommendations that were ignored by the patient. Unfortunately, the patient suffered an infection which eventually led to his death.

The Patient and Condition

The patient was a 68-year-old male with diabetes. He lived in California, was married, and was employed as a general contractor. He had a 10-year history of diabetes and hypertension. At the time of care, he suffered from uncontrolled diabetes along with arteriosclerotic vascular disease.

The patient presented to our insured podiatrist for evaluation of pain and discomfort of his bilateral feet. At the time of presentation, the patient was diabetic with very poor peripheral pulses. The patient was instructed to follow-up with his treating cardiologist regarding his poor pulses which the patient repeatedly refused to do.

The Treatment

Our insured podiatrist diagnosed the patient with arthritic metatarsophalangeal joints and corns under the 5th metatarsal and on the medial aspect of the 4th and 5th toes; his corns were debrided on two separate occasions.

The Injury

The patient returned with infected 4th and 5th toes and the infection was debrided. The patient returned again with continuing and progressing infection and refused recommended hospital care, as well as referrals to infectious disease and/or vascular surgeon.

The patient was placed on antibiotics and cultures were ordered and returned as positive for cocci and alpha-hemolytic streptococci. The patient finally accepted a referral to infectious disease, who assumed care and treatment of his infection; however, the infection led to two amputation procedures, sepsis, and death.

The Allegations

It was alleged that our insured podiatrist breached the standard of care in failing to refer the patient to an infectious disease specialist and/or failing to advise the patient to present to the emergency department for treatment of his progressing infection.

The Defense

Defense experts were retained and a motion for summary judgment was filed arguing that the undisputed evidence in the case showed our insured podiatrist met the standard of care in his care and treatment of the patient and that no action or inaction by our insured caused or contributed to the patient's death. The plaintiff opted to dismiss the case with prejudice rather than respond to the motion.

The Outcome

The case was voluntarily dismissed with prejudice by the plaintiff (the deceased patient's wife). Meaning that the plaintiff chose to dismiss the case rather than respond to the motion. "With prejudice" means the case is closed and cannot be refiled or brought back to court under any circumstances.

Risk Management Tips

- **Always document a patient's non-compliance.** Document all conversations with the patient. This includes patient education and instructions, questions asked by the patient and your answers, and any patient concerns and your responses. Also include patient statements of non-compliance and your observations of non-compliance, as well as your discussions with the patient regarding the risks of non-compliance. If a patient suffers a bad outcome because of their own actions or inactions, it is much easier to defend allegations of malpractice against the physician if the patient's non-compliance is documented in the medical record.

- **Make sure to note refusal of care.** If a patient refuses a recommended plan of treatment, it is important that you undergo and document an "informed refusal" discussion with the patient. It may even be necessary to ask the patient to sign a "refusal of treatment" form.

- **Ensure the patient understands the importance of treatment.** Ask the patient what they know or think they know and where they got the information. Replace any misinformation with accurate information. Explain medical terms and incorporate diagrams and educational handouts to enhance your patient education efforts.

- **Identify the reason for the patient's non-compliance if possible.** Try to find out if the patient's non-compliance is intentional or unintentional and why they're not complying. This can help you better understand why they are not being compliant and if you know the reason, you can help to address it.

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