

CASE STUDY WITH RISK MANAGEMENT STRATEGIES

Presented by HPSO and CNA

Medical malpractice extends to every aspect of the medical field, including physical therapy. While common perception may be that doctors bear the brunt of lawsuits, the reality is that physical therapists are increasingly finding themselves defending the very care they provide – and it can be costly. In fact, over \$43 million was paid out for 1,464 malpractice claims involving physical therapists, according to a 13-year study conducted by the HPSO underwriter CNA.*

Case Study: Improper treatment resulting in burn and scarring

Settlement Payment: Low five figure settlement Legal Expenses: \$34,037

The plaintiff was a 40-year-old female receiving physical therapy following surgery to her ankle. The defendant physical therapist applied a hot pack to the affected area for pain relief.

The defendant physical therapist's documentation in the plaintiff's record reflected appropriate temperature and duration of heat treatment. There was no documentation that the plaintiff's skin was checked during the treatment, but the plaintiff did not express any discomfort during or after the treatment. Subsequent to leaving the physical therapy center, the patient called to report a burn on her ankle at the site of the heat treatment.

Photographs revealed a dime-sized severe burn on the plaintiff's ankle. The plaintiff alleged severe pain, restriction in movement of her ankle, inability to stand, sit or walk for an extended period of time.

Further, she alleged severe scarring resulting from the burn prohibited her from maintaining her customary habit of walking 4-5 miles per day, attending a gym, and enjoying the beach.

She alleged the inability to carry out her regular activities due to pain and embarrassment from both the scarring and considerable weight gain she attributed directly to her inability to walk and exercise.

Resolution

Expert reviews were contradictory. While there was no clear departure from the standard of care, the plaintiff suffered a severe burn that resulted in scarring and some alteration in functioning. The venue was known to be plaintiff-oriented with inflated plaintiff jury awards. The case was settled for a low five figure settlement amount with an additional \$34,037 paid in legal expenses.

Risk Management Comments

- ◆ There was no documentation to explain the patient's severe burn or to indicate the defendant physical therapist specifically checked the plaintiff's skin before, during and after the heat therapy.

Risk Management Recommendations

- Review the patient's medical history prior to the application of heat therapy to ensure there is no neurological, circulatory or other contraindication to the application of heat for pain relief.
- Ensure the patient is able to perceive temperature and sensation in the area to receive heat therapy prior to its application.
- Ensure that heat therapy equipment is properly applied, padded, and timed and the patient's skin is properly protected.
- Inspect the patient's skin prior to, during and after heat therapy to ensure the skin is healthy enough to withstand appropriately applied heat therapy, that the patient is not experiencing any discomfort or undue heat during therapy and there is no evidence of redness or irritation before, during and after the treatment.
- Notify the patient's physician for any signs or symptoms of a burn resulting from heat therapy.
- Document objective findings and observations related to skin condition and patient expressed comfort level before, during and after the application of heat.



Guide to Sample Risk Management Plan

Risk Management is an integral part of a healthcare professional's standard business practice. Risk management activities include identifying and evaluating risks, followed by implementing the most advantageous methods of reducing or eliminating these risks - A good Risk Management Plan will help you perform these steps quickly and easily!

Visit www.hpsso.com/risktemplate to access the Risk Management plan created by HPSO and CNA. We encourage you to use this as a guide to develop your own risk management plan to meet the specific needs of your healthcare practice.



*CNA HealthPro Physical Therapy Claims Study, September 2006. To read the complete study along with risk management recommendations, visit www.hpsso.com/ptclaimstudy

This publication is for educational purposes. It is not legal, professional or medical advice. CNA makes no representations as to its correctness or completeness and accepts no liability for any injury or damage that may arise from its use. Specific legal or medical questions should be referred to a competent attorney or medical professional before applying this material in any particular factual situations. This material may address and discuss matters for which your policy does not provide coverage, and the material does not create or imply the existence of coverage. Please consult your insurance policy for the specific terms, coverages, amounts, conditions and exclusions of coverage. All products and services may not be available in all states and may be subject to change without notice. CNA policies are underwritten by the property/casualty companies of CNA, Chicago, IL. CNA is a registered trademark of CNA Financial Corporation. © 2012 Continental Casualty Company. All rights reserved.

This publication is intended to inform Affinity Insurance Services, Inc., customers of potential liability in their practice. It reflects general principles only. It is not intended to offer legal advice or to establish appropriate or acceptable standards of professional conduct. Readers should consult with a lawyer if they have specific concerns. Neither Affinity Insurance Services, Inc., HPSO, nor CNA assumes any liability for how this information is applied in practice or for the accuracy of this information. This publication is published by Affinity Insurance Services, Inc., with headquarters at 159 East County Line Road, Hatboro, PA 19040-1218. Phone: (215) 773-4600. All world rights reserved. Reproduction without permission is prohibited.

Healthcare Providers Service Organization is a registered trade name of Affinity Insurance Services, Inc.; (AR 244489); in CA, MN & OK, AIS Affinity Insurance Agency, Inc. (CA 0795465); in CA, Aon Affinity Insurance Services, Inc., (0G94493), Aon Direct Insurance Administrator and Berkely Insurance Agency and in NY and NH, AIS Affinity Insurance Agency. © 2012 Affinity Insurance Services, Inc.

X-8611-0112

