

Presented by  
HPSO and CNA

## Physical Therapists Medical Malpractice Case Study with Risk Management Strategies

### Case Study: Therapy for Back Pain caused Injury

**Indemnity Payment:** \$1,000,000

**Legal Expenses:** \$60,962

#### Summary

Note: Monetary amounts represent only the payments made on behalf of the physical therapist and his private practice. Any amounts paid on behalf of the co-defendants are not available. While there may have been errors/negligent acts on the part of other defendants, the case, comments, and recommendations are limited to the actions of the defendants; the physical therapist and his private practice.

The defendant physical therapist owns a private practice whose specialty is treatment of orthopedic conditions. Initially, the patient (plaintiff), a 55 year-old male, received physical therapy from the defendant physical therapist following his total knee replacement. A year later, the patient was referred to the defendant physical therapist for treatment of his back pain. Approximately two years later, the patient contacted the defendant physical therapist to request consultation for his on-going back pain. The patient did not have a physician referral, but in light of their past relationship, the defendant physical therapist agreed to see the patient for a consultation.

The patient denied any history of trauma but advised he had been experiencing severe pain that had been increasing rapidly over the past several days. He said "he felt like something needs to pop". The patient could hardly lift his arms. However he denied any dizziness or numbness. The defendant physical therapist began a very basic spinal examination by having the patient lay flat on a physical therapy board. The exam took about 2-3 minutes and the PT recalled palpating from the T-8 to T-4 levels. He began the process of oscillating the facet joints and when he reached the T-4 level, began a grade 3-4 test of range of motion. At this point, the patient complained of electrical shock, brief and short. The patient was then placed in the prone position and upon palpation, it was noted the patient had severe muscle spasms and reported a tingling shooting all the way to his legs. At this point, the defendant physical therapist quickly stopped the exam and informed the patient he could not continue further examination because the muscles were too tight. He recommended that the patient stand up and go to the massage table where the defendant physical therapist would try a light massage to loosen the muscles and then continue the evaluation. The patient was placed

Medical malpractice claims can be asserted against any healthcare provider, including physical therapists. In fact, \$44 million was paid for malpractice claims involving physical therapists, according to the most recent CNA HealthPro 10-year study.\*

This case involves a Physical Therapist and owner of the Private Practice.



on a massage table with a low setting of 8 pounds. After 15 minutes, the defendant physical therapist assisted the patient off the table when the patient began complaining of tingling in his legs. The defendant physical therapist determined that the patient had a serious neurological issue, recommended emergent treatment and called an ambulance. The patient claims to have lost function of his legs by the time the ambulance arrived about 15 minutes later.

The patient was transported to a nearby medical center where an MRI of the thoracic spine showed multilevel degenerative disc disease with mixed protrusions causing various degrees of central canal stenosis. The patient was then transported to a hospital where an MRI of the cervical spine determined the patient had a large disc herniation at the C6-C7 level. The next day, an anterior cervical discectomy and spinal fusion was performed. Following surgery, the patient was left with paralysis in his lower extremities. After an extensive stay in a rehabilitation facility and subsequent physical therapy the patient has limited feeling in his legs and is confined to a wheelchair.

*continued...*

## ➤ Risk Management Comments

Through a mutual friend, the defendant physical therapist learned that the patient may have been less than candid during their consultation. Specifically, the defendant physical therapist learned that the patient had been experiencing neck and back problems for approximately three weeks and had apparently been in some sort of accident. However, despite an exhaustive search, we were unable to confirm proof of this accident.

PT expert witnesses for the defense were supportive that the defendant physical therapist met his standard of care in light of the direct access provisions in this state. However, two expert neurosurgeons were unresponsive and advised that the defendant physical therapist's actions caused the paraplegia. A suit was filed alleging negligent treatment and failure to take a thorough patient history, ultimately resulting in paralysis. To compensate for medical bills, pain and suffering and lost wages, a demand in excess of \$5,000,000 was sought. Without expert support, and in consideration of the patient's paralysis, this was a claim to resolve. The matter was ultimately settled prior to trial.

## ➤ Risk Management Recommendations

- **Know and practice within your state-specific scope of practice and standard of care.**
- **Elicit the patient's concerns and reasons for the visit and address those concerns.**
- **Gather, document and utilize an appropriate patient clinical history, as well as relevant social and family history.** A new patient clinical history must be performed at the beginning of each "new problem" visit.
- **Adopt an informed consent process that includes discussion and teach-back from the patient** and demonstrate that the patient understands the risks associated with treatment.
- **Document all interactions with the patient, authorized family members and professional staff.**
- **Cease any treatment deemed to present a safety risk to the patient** and contact the supervising physical therapist and/or physician to make necessary adjustments to the treatment regimen.
- **Factually and thoroughly document any unusual occurrences that arise during the patient's treatment of care.**

## 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.hpso.com/risktemplate](http://www.hpso.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 Liability, 2001-2010, CNA Insurance Company, December 2011. To read the complete study along with risk management recommendations, visit [www.hpso.com/ptclaimreport2011](http://www.hpso.com/ptclaimreport2011).

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