

CASE STUDY WITH RISK MANAGEMENT STRATEGIES

Presented by HPSO and CNA

Medical malpractice claims can be asserted against any healthcare provider, including physical therapists & physical therapist assistants. Although there may be a perception that physicians are held responsible for the majority of lawsuits, the reality is that physical therapy professionals are more frequently finding themselves defending the care they provide to patients. In fact, over \$44 million was paid for malpractice claims involving physical therapy professionals, according to the most recent CNA HealthPro 10-year study*

Case Study: Improper treatment resulting in patient death

Settlement: mid-six-figure range

Legal Expenses: low four-figure range

Note: There were multiple co-defendants in this claim who are not discussed in this scenario. Monetary amounts represent only the payments made on behalf of the physical therapist assistant. 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 defendant; the physical therapist assistant.

Summary

The patient (plaintiff) was a 68-year old chronically ill female with a history of diabetes, severe ankylosing spondylitis, neuropathy, myopathy, chronic obstructive pulmonary disease, obesity and falls. The physical therapist and the defendant physical therapist assistant (PTA) were employed by a home health agency and were providing home based physical therapy care to the patient following a recent hospitalization.

The physical therapist evaluated the patient and her residence and initiated the prescribed home based physical therapy treatment, which included wall slide exercises. The defendant physical therapist assistant found the walls to be uneven and changed the wall slide exercise location to the hallway bathroom door. On one occasion, the patient's daughter requested that wall slides against the door be removed from her mother's therapy regimen because of her physical instability. Despite that request, on the day of the incident the patient completed three successful slides using the bathroom door. During the fourth slide, the door suddenly opened thrusting the patient to the tiled bathroom floor.

The defendant PTA cautioned the patient to remain still and called 911 for assistance. The defendant PTA also notified her employer and the patient's physician of the patient's fall. Prior to EMS arrival and despite the physical therapist assistant's caution, the patient repositioned herself to a sitting position. The patient stated she had no pain or discomfort from the fall and was assisted to a standing position by EMS staff. She ambulated with assistance approximately ten feet, sat in her chair, stated she was fine and refused multiple recommendations for transport to the hospital for further evaluation. Because of the patient's refusal to be transported and because she was home alone, the insured attempted

(unsuccessfully) to contact family members to come and stay with her. When the defendant PTA left the patient's home, the patient appeared to be in stable condition; had no complaints and stated she would be fine alone. The physical therapist assistant does not know when the husband or any other family member returned, but she later learned that the family was upset that she had left the patient alone.

Later that day, the patient was transported to the hospital by her family with complaints of pain and the inability to move her lower extremities. She was admitted to the intensive care unit for five weeks where she continued to suffer pain and post injury paraplegia secondary to fracture of the third thoracic vertebrae with an extensive spinal hematoma. When it was determined that her condition would not improve and no longer required acute hospital care, she was discharged home with 24-hour home care assistance. Her condition continued to deteriorate and she died two days after arriving home.

The family expressed anger because the physical therapist assistant left the patient alone after her fall and ignored the daughter's prior request to cease the wall slide exercises. The family requested that the home health agency take punitive action against the defendant PTA. The PTA's employer carried out an investigation of the incident and performed direct supervision to assess the quality of her work. Her techniques and practices were evaluated as being excellent and she was not terminated. Any actions by the employer to investigate the physical therapist are unknown.

The patient's husband sued the home health agency, the physical therapist and the PTA for damages resulting in his wife's pain and suffering, paraplegia and death and for his own loss when she died.

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Resolution

No expert witness could support the therapy provided by the defendant physical therapist assistant. The PTA was deemed negligent in the following areas:

- Failure to notify the physical therapist regarding uneven wall surfaces and her decision to move the patient to the bathroom door for wall slide exercises. The decision to modify the therapy regimen was outside her scope of practice.
- Failure to notify the physical therapist that the patient's daughter requested discontinuation of wall slide exercises due to her mother's instability.

Based on the findings of negligence, the decision was made to proceed to mediation. After several failed mediation attempts, settlement was achieved during jury selection.

Risk Management Comments

- ◆ It would have been prudent for the physical therapist assistant to have arranged for someone to remain with the patient before leaving. If she was unable to reach family members and was unable to stay herself, she might have contacted her employer to arrange for another staff member to remain with the patient until the family returned and to observe the patient for changes in her condition.

Risk Management Recommendations

- Know and practice within your state-specific scope of practice and standard of care.
- Evaluate the safety of the physical environment in relation to the patient's condition and therapy needs prior to each treatment.
- 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.
- Immediately report and document any patient fall, injury or adverse event and remain with the patient until medical assistance arrives and transports the patient, provides direct treatment or declares the patient is not injured.
- Document all refusals of recommended care and treatment and ask the patient to sign that they refuse treatment and are aware of the risks of that refusal. If witnesses to the patient's refusal are present, document their names and contact information for future reference.
- Document all interactions with the patient, authorized family members and professional staff.
- Document all attempts to obtain supervision for a patient who has been injured but who refuses treatment understanding that it may be necessary to remain with the patient until an alternative person can be located.

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 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.

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