

COMMENTARY PROVIDED BY Jeffrey L. Susman, MD, Editor-in-Chief

When a screening mammogram isn't enough

A LUMP IN THE BREAST was discovered by a woman in her mid-40s. She underwent a screening (rather than a diagnostic) mammogram; no abnormalities were reported. An ultrasound ordered when the woman returned to her physician the following year noted problems. However, the report that was faxed to the physician never reached him, and no follow-up was done.

A year later, the patient made a follow-up appointment on her own initiative. A diagnostic mammogram and surgical biopsy revealed advanced cancer of the left breast. Vacuum-assisted core biopsy and clip localization performed shortly thereafter identified infiltrating ductal carcinoma.

The patient underwent neoadjuvant chemotherapy, resulting in complications and hospitalization. She subsequently had additional chemotherapy and radiation treatment.

PLAINTIFF'S CLAIM Immediate treatment would have improved the patient's chances of cure.

THE DEFENSE No information about the defense is available.

VERDICT \$575,000 settlement in South Carolina under the Federal Tort Claims Act, plus a \$5,000 settlement with a hospital.

COMMENT *A couple of lessons from this unfortunate case: Make sure a diagnostic (not screening) mammogram is ordered when evaluating a breast mass, and maintain a tickler file for critical lab and imaging results.*

Insurance denied, appeal delayed, treatment of appendicitis deferred

ABDOMINAL PAIN SEVERE ENOUGH TO AWAKEN HER prompted a 48-year-old woman to contact her physician, who saw her 2 days later. The doctor performed an ultrasound examination, which

ruled out gallstones, and ordered a computed tomography (CT) scan of the pelvis for the following day.

After the patient was injected with contrast medium for the scan, it was learned that her insurer had refused to approve the test. The patient's pain persisted, and her doctor prescribed a pain reliever for a presumed pulled muscle. A week later, the doctor appealed the insurer's denial of the CT scan in writing. The insurer responded that the scan would be approved if a fecal blood test proved negative.

Test results were submitted 4 days later; the CT scan was approved and performed a little more than 3 weeks after the initial order. The patient was diagnosed with appendicitis and underwent emergency surgery, including removal of part of her colon and bowel. Eight days in the hospital and a lengthy recovery followed.

PLAINTIFF'S CLAIM The physician was negligent in failing to follow up promptly on the insurer's denial of approval for the CT scan.

DOCTOR'S DEFENSE The physician claimed that he had ordered the proper test in a timely manner; denial of approval by the insurer delayed treatment.

VERDICT \$1.3 million Kentucky verdict against the physician after the plaintiff settled with the insurer.

COMMENT *Ouch! This outcome is one we all fear—the insurer denying approval for a test and the physician bearing the brunt of a malpractice claim. When in doubt, get the test done and sort out the paperwork later.*

Undiagnosed heart condition leads to brain injury

A 14-YEAR-OLD BOY collapsed while participating in a rodeo branding event. He was revived and taken to an emergency room (ER), where a physician evaluated him and admitted him to the hospital for overnight monitoring. The heart monitor recorded QT intervals suggesting long QT syndrome, a rare congenital condition that can lead to fainting and, occasionally,

The heart monitor recorded QT intervals suggesting long QT syndrome, but a diagnosis was not made.

The cases in this column are selected by the editors of *THE JOURNAL OF FAMILY PRACTICE* from *Medical Malpractice: Verdicts, Settlements & Experts*, with permission of the editor, Lewis Laska (www.verdictslaska.com). The information about the cases presented here is sometimes incomplete; pertinent details of a given situation may therefore be unavailable. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation.

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PTSD and suicide prevention

Sally Kopstein, MSW, LCSW,
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WHAT'S THE VERDICT?

death from cardiac arrhythmias. The condition wasn't diagnosed at the time.

A year and a half later, the patient collapsed again, this time during school wrestling practice. This more severe event resulted in anoxic brain injury, which left the patient disabled and in need of assistance with activities of daily living.

PLAINTIFF'S CLAIM The ER physician failed to diagnose congenital long QT syndrome. Proper diagnosis and treatment after the first incident could have prevented the second incident.

THE DEFENSE No information about the defense is available.

VERDICT Confidential Wyoming settlement, which included a provision that the defendant's insurer provide inservice training on sudden arrhythmias and long QT syndrome for local doctors and other health care providers.

COMMENT *Remember the zebras, as well as the horses, particularly when evaluating a patient for an unusual and potentially life-altering problem. Although syncope may be common in elders, such events in teenagers should prompt a comprehensive and meticulous evaluation.*

Suicide follows antidepressant use

A 58-YEAR-OLD MAN with unexplained weight loss, diminished appetite, increased stress, edginess, and decreased libido sought care from his physician. The doctor diagnosed depression and prescribed escitalopram, 10 mg per day. He gave the patient a 5-week supply of sample medication with no warning literature or product information. Twenty days later, the patient hanged himself at home.

PLAINTIFF'S CLAIM The physician wrongly diagnosed depression; he shouldn't have given the patient escitalopram because the US Food and Drug Administration (FDA) has issued an advisory concerning increased risk of suicide for adults treated with antidepressants. Neither the patient nor his family was informed about the possible side effects of escitalopram.

THE DEFENSE The diagnosis of depression was proper; nothing the defendants did or failed to do contributed to the patient's death.

VERDICT Ohio defense verdict.

COMMENT *Given the FDA's black-box warning, it is imperative that we counsel and document concerning the risk of suicide when initiating therapy for depression.*