“Just Another Closed Head Injury” – Anatomy of a Lawsuit

Rob Canan RN EMTP
Objectives:
1. Scare you
2. Challenge you
3. Help you see the goal

Official Objectives:
• Understand the components of negligence
• Understand the information that is discoverable in a lawsuit
Phases of a career
1. What the heck am I doing?
2. I can handle it.
3. Its time to be a professional
You must learn from the mistakes of others. You can't possibly live long enough to make them all yourself.

Sam Levenson
(1911 - 1980)
The Basics:

• EMS called to a gym for a BB player who fell about 2230 with head injury
• Transported to nearby hospital
• Evaluated in ED with labs / CT
• Admitted to Neuro ICU
• Respiratory arrest @ 0721
• Repeat CT > Ventriculostomy drain
• Negative cerebral blood flow study
• Declared brain dead and removed from vent
Chronology of lawsuit

• The accident
• @2-4 months later the mother asked me to review the chart
• <8 months, mother seeked legal action
• @ 12-14 months, depositions were done
• @26 months, goes to trial but declared a mistrial
• @30 months, goes to trial a second time
What is to be learned:
• Pathophysiology
• Depositions
• Discovery
• Standard of care
• Attorney preparation
EMS call

- 2325 hrs
- CC neck pain - ? LOC – oriented x3
- Immobilized onto LSB
- VS 130/80—96—18—98%
- Enroute, orientation decreases to 2 with loss of short term memory, repetitive questions, slurred speech, and projectile vomiting
- Transport time is very short <2 min
Emergency Department course

• Arrives 2303 – GCS 15 – actively vomiting – VS 118/54 – 83
• 2335 – “more confused and slightly combative”
• 2345 – ”appears more obtunded” – to CT – more N/V in CT
• 2355 – back from CT “appears more obtunded – PERL but sluggish
Head CT / neurosurgeon note shows:

- Blood in 4\textsuperscript{th} ventricle
- Blood beneath the tentorium and around the brain stem
- Non-displaced right occipital fx
- Cerebral contusion
- Opens eyes to voice = 3
- Mixing words up gibberish = 3
- Follows commands = 6 so…. GCS 12
Admit to Neuro ICU at 0120
• VS 149/64-55—32
• GCS=4+3/4+6=13-14
• “Combative / thrashing” “garbled speech”

Other excerpts from the chronology
Audience Participation

Send a blank text message to my cell phone 406-670-0727 when you think the nurse should call the attending MD
## Labs and Blood Gases

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<td>K+</td>
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<td>Cl-</td>
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<tr>
<td>BE</td>
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</table>
POST-ACCIDENT CONDITION WITH SUBSEQUENT DEVELOPMENT OF HYDROCEPHALUS AND BRAIN DEATH

3RD VENTRICLE

NORMAL CONDITION

BLUE ARROWS FOLLOW CIRCULATION OF CEREBROSPINAL FLUID

4TH VENTRICLE

CEREBELLUM
POST-ACCIDENT CONDITION DURING FIRST CT

BLOOD WITHIN 4TH VENTRICLE

BLOOD BENEATH THE TENTORIUM AND AROUND BRAINSTEM

OCCIPITAL SKULL FRACTURE

SAGITTAL VIEW OF BRAIN
POST-ACCIDENT CONDITION WITH SUBSEQUENT DEVELOPMENT OF HYDROCEPHALUS AND BRAIN DEATH

Blood within the 4th ventricle blocks the flow of CSF and the fluid begins to build up in the brain.

Post-accident condition during first CT

Blood beneath the tentorium and around brainstem

Blood within 4th ventricle

Sagittal view of brainstem and cerebellum
POST-ACCIDENT CONDITION WITH SUBSEQUENT DEVELOPMENT OF HYDROCEPHALUS AND BRAIN DEATH

CONDITION DURING SECOND CT 11/23/99

INTRACRANIAL PRESSURE BUILDS AS CSF CONTINUES TO BE PRODUCED

SAGITTAL VIEW OF BRAIN
CONDITION DURING SECOND CT 11/23/99

- Moderate to severe dilation of lateral, third and fourth ventricles
- Intracranial pressure builds as CSF continues to be produced
- Blood within posterior horns of lateral ventricles
- Blood within 4th ventricle extending into 3rd ventricle
- Tonsillar herniation compresses medulla causing ischemia and infarction (respiration stops)
- Tonsillar herniation of cerebellum through foramen magnum of skull

LATERAL VIEW OF BRAIN AND VENTRICULAR SYSTEM
CPP = MAP-ICP
Was there negligence?

• Just because there were errors does not equal negligence
• Components of negligence
  • Duty to act
  • Failure to act
  • Injury
  • Injury caused by failure to act

“unpredictable, unforeseeable, untreatable”
Standard of Care
What is it?
What is Discovery---Almost EVERYTHING

- Whole chart
- Work schedules
- Census
- Policy
- Original occurrence report but not follow-ups
  - How far back?

3 years from discovery or 3 years after the incident— for peds, 18 +3
### Who Gave a Deposition?

<table>
<thead>
<tr>
<th>Medical Staff</th>
<th>Expert Witness</th>
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<tbody>
<tr>
<td>Mother</td>
<td>Neurosurgeon</td>
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<tr>
<td>Aunt</td>
<td>Neuroradiologist</td>
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<tr>
<td>Visiting friends</td>
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<td>Neurosurgeon (Second)</td>
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<td>ICU Clinical Coordinator</td>
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<tr>
<td>OR tech</td>
<td></td>
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<tr>
<td>OR Scrub nurse</td>
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<tr>
<td>OR Circulating Nurse</td>
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<tr>
<td>Anesthesiologists</td>
<td></td>
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<tr>
<td>Division director</td>
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</tbody>
</table>

**EXPERT WITNESS**

- Neurosurgeon
- Neuroradiologist
- Clinical nurse x2
Depositions – Who are you as a medical professional?

- Personal background
- Education
- Work experience (detailed)
- Group memberships
- Committee memberships
- In-services
- Continuing education and corresponding materials
Depositions – How are you at being a medical professional?

- Job evaluations
- Employee file
- Supervisors / managers and their employee files
- Annual credentialing
Depositions – How are you involved in this case

- Previous similar patients
- How you became involved
- Finances and fees
- Others you have talked to
- All material reviewed
- Past depositions of cases
- Qualifications
- Personal condition that day
Depositions – What is your understanding of this case?

- Understanding of the Diagnosis
- Specific pathophysiology
- All specific documentation
- Critical thinking process
- “Are you going to have an opinion about….”
- Chronology of events
- “Is that important? Why?”
- How well did she testify during trial?
Attorney preparation

- Organize information
- Stunning graphics
- Practice trial
- Expert witness vs medical prostitute

- What was my part?
Montana Medical Legal Panel

- 3 attorneys
- 3 medical providers
- 2 questions?
  - Breach of Standard of care?
  - If yes, was there injury
- Non-binding
- Inadmissible
What was wrong with the case

- Ineffective communication
- An inexperienced nurse in a neuro ICU that had insufficient training
  - Doesn’t read MD notes or CT results
  - Minimal documentation of neuro monitoring
  - Doesn’t know how monitors work, why IV or O2 needed
  - Poor understanding of pathophysiology-Cushings, EKG strips, labs
  - Distracted by squirrels- rash, alarms, thrashing
  - A total lack of perception that she could have done anything to change the outcome
  - Failure to recognize abnormal VS or connect the dots
- Complete opposite perspective or description of the cause of respiratory arrest / death. A denial of the apparent
- Apparent miscommunication of postmortem investigation
What was the trial verdict?

Dr. Morone’s comments
Expert Nurse’s comments
Rules of Medicine

1. Take care of number 1
2. Learn who is number 1
3. Patients die
4. EMTs, paramedics, nurses and doctors cannot change rule #3
5. Patients do not read the text book
6. Your job is to do your job
   1. Accept patients where they are today
   2. Treat them as you would want to be treated
   3. Serve them with excellence
References:


Review of Patient’s medical record