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BRIEF **CASE**

SUMMARY: In this case, the chiropractor was sued after his patient suffered a stroke following chiropractic treatment.

The Patient and Condition

The patient was a 29-year-old certified nurse assistant. She had a long history of migraine headaches with associated nausea, vomiting, and dizziness for which she was taking the medication Meclizine. She also had complaints of neck pain. She had received chiropractic treatment from the insured's practice for these complaints on two occasions over an eight-month period. She returned two weeks after her last chiropractic appointment with complaints of migraines and continued right upper neck pain. She had been to the emergency room five days prior for complaints of severe migraine, neck pain, tunnel vision, sweating, nausea, etc. During the emergency room visit, she reported a stiff neck on the right for several weeks, and that she had been evaluated by her primary care physician several times for the problem. She was referred to a neurologist who evaluated her two days later. The neurologist gave her a right occipital nerve injection for her migraine headache and recommended she see a chiropractor.

The Treatment

The insured evaluated the patient and found subluxations at C1, C2, C3 and her cervical spine range of motion was limited to 45 degrees in left rotation to 60 degrees in right rotation. Shoulder depressor test was negative bilaterally and maximal. Cervical compression test was negative bilaterally. The insured performed a diversified adjustment at C1, C2, and C3. After the adjustment, the patient reported dizziness and felt it hard to focus. Her hands and fingers were getting numb, and it was difficult to talk.

The insured wanted to call EMS for transport to the emergency department, but the patient refused. Instead, she had her husband come to the office and drive her to the emergency department.

The Injury

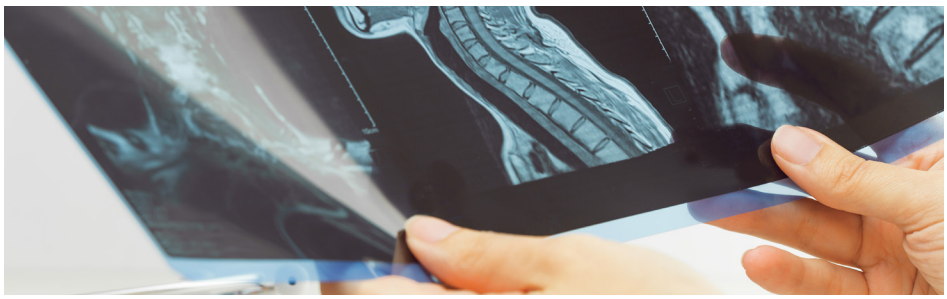
The patient was diagnosed with a right inferior cerebellar infarct secondary to a dissection of the right vertebral artery and tPA was administered.

The Allegations

The patient filed a lawsuit against the insured alleging the chiropractic treatment performed at her last visit caused her to develop a vertebral artery dissection which caused an acute stroke. She alleged that she had visual and other physical deficits secondary to the acute stroke, including worsening of her headaches, difficulty with extended ambulation, imbalance issues, fatigue, etc. which prevented her from working.

Specific allegations against the insured included:

- Failure to obtain proper informed consent.
- Failure to perform an adequate physical examination/assessment.
- Failure to refer for specialty consultation and/or specialty imaging studies before considering chiropractic manipulation.
- Use of excessive and improper force/technique related to cervical manipulation.



The Defense

The defense obtained expert reviews and opinions from two chiropractors, a neuroradiologist, a neurologist, and a vascular neurosurgeon. Both chiropractic experts felt the insured provided appropriate care and treatment to the patient. From a review of the patient's past medical records, it appeared that the patient had a pre-existing vertebral artery dissection that had been missed by multiple providers. They felt while the insured's treatment may have caused a pre-existing clot to break off, it would have likely occurred as a result of any number of normal activities involving movement of the neck.

The neuroradiologist reviewed the patient's imaging studies and felt the patient had suffered a VAD weeks before her last visit with the insured. The patient suffered a mild right cerebellum stroke which is usually associated with a good prognosis/outcome. The neurologist reviewed the patient's subsequent medical records and opined the patient made a relatively good recovery from the mild stroke and there was no medical support for the patient's claims of inability to work.

The vascular neurosurgeon concurred the patient had a pre-existing vertebral artery dissection which developed several weeks before her last appointment with the insured. He indicated that it is difficult to make a diagnosis of VAD as evidenced by the fact that her condition had been missed by multiple providers (PCP, ED physician, and a neurologist) prior to her last visit with the insured. He did not believe that the insured's treatment caused the dissection, but it may have caused a pre-existing blood clot to break off.

The Outcome

The defense team felt this case was defensible both in terms of standard of care and causation. However, there were weaknesses to overcome. The patient developed her acute stroke symptoms immediately after the insured's cervical manipulation, she would be a very sympathetic witness at trial, and an adverse verdict could be substantial. Additionally, the insured desired to settle the case prior to trial due to the concerns that a verdict for the plaintiff could exceed the insured's policy limits.
A settlement was negotiated, and the case was closed.

Risk Management Tips

While the insured's treatment could be defended, there are measures they could have taken to reduce the risk of a lawsuit.

- **Perform and document a thorough orthopedic and neurologic examination prior to initiating chiropractic treatment.** In this case, there was no objective documentation of orthopedic and neurological examinations and findings prior to initiation of treatment. Document both positive and negative findings and address any negative findings. Consider and document differential diagnosis based upon the patient's presentation.
- **Document your clinical assessment/diagnosis, treatment plan, and your rationale for treatment on the initial visit.** Additionally, reassess the treatment plan periodically throughout the course of treatment. If the patient's symptoms do not improve as expected, consider modifying the treatment plan or referring the patient for further testing and workup as indicated.
- **Obtain and document the patient's informed consent prior to initiating chiropractic treatment.** The informed consent discussion should include the intended benefits of, alternatives to, and the possible risks and complications of the treatment or procedure.
- **Document the specific treatment performed and the specific location where the treatment was performed.** This information is important in defending allegations of inappropriate treatment.
- **Be cognizant of early signs and symptoms of VAD or stroke.** In this case the patient had a history of prior headaches, nausea, vomiting, and dizziness which could indicate the possibility of pre-existing risk of stroke or dissection. If you have concerns that the patient is at risk for VAD, promptly refer the patient for further testing prior to initiating treatment.

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