



CASE STUDY:

By Brenda Freeman, JD
Director of Claims Management, Advocate, MD

“A Physician Should Not Lose Focus of the Patient’s Primary Complaint”

Overview of Facts:

A 46-year-old male sustained an on-the-job injury when a piece of metal struck his right eye. Within one hour of the incident, the patient went to a Minor Emergency Clinic for evaluation and treatment of his eye. The patient told the medical assistant he was hit on the right eye, but he appeared to be in no acute distress.

The medical records indicate that when the physician saw the patient, the patient’s primary concern was not his eye injury, but rather a previous medical condition. The patient indicated that the Levitra, prescribed by another physician during a different visit did not work and he needed a new prescription for Viagra. An exam indicated the patient had genital herpes; the physician prescribed Zovirax.

The physician then asked the patient about his eye injury. The patient stated he was hit with a small piece of metal below the right eye but that he was “OK.” The physician performed a complete eye exam and determined there was no foreign body in the eye. Based on these findings, the physician did not refer the patient to a specialist or the emergency department. However, the physician did note there was a slight amount of redness (subconjunctival hemorrhage) on the lower eye lid consistent with a minor contusion or abrasion. For the abrasion under the eye, the physician applied a topical ointment.

The physician’s assessment of the patient’s condition included: subconjunctival hemorrhage of the eye, erectile dysfunction, and open wounds in the genital area. The patient was sent home with Zovirax ointment and Viagra.

The following day the patient woke up with excruciating pain in his right eye. He went to the Emergency Room and was transported to another hospital where the doctors attempted a globe repair, washout and antibiotic injection to try and save the vision in the right eye. This was unsuccessful. In order to prevent the development of sympathetic ophthalmia in the remaining left eye, an enucleation of the right eye was performed. The patient later received a prosthetic eyeball.

Lawsuit Filed

A lawsuit was filed naming the Minor Emergency Clinic and the physician. The allegations against the physician were:

1. Failure to identify the foreign body in the patient’s right eye;
2. Failure to order the appropriate radiology tests to rule out the presence of an intraocular foreign body;
3. Failure to order antibiotic therapy in an effort to prevent infection; and
4. Failure to refer the patient to a facility capable of identifying and treating patients with intraocular foreign bodies.
5. As a result, the patient developed an infection (endophthalmitis) and a subsequent loss of vision in his right eye, ultimately requiring enucleation.

Liability Concerns:

In retrospect, the physician realized it was likely that the metal foreign body penetrated the right eye through the side of the abrasion below the eye. He also recognized that he should have sent the patient to the ER or an ophthalmologist immediately, since eye injuries have a fairly high incidence of bad outcome and a delay in treatment can “hasten the bad outcome.”

The physician looked at the eye grossly, without instrumentation, and noted that the patient had a small abrasion just below his right eye. He did not examine the eye with an ophthalmoscope nor did he X-ray the eye, although the Minor Emergency Clinic did have an X-ray machine. The physician stated he did not feel it was necessary to examine this patient who was in no acute distress.

During the exam, the physician used a fluorescein stain. If there is no penetration or abrasion to the eye, the fluorescein stain will be smooth and no discoloration will be observed when using a black light. If there is a wound, the fluorescein will glow or produce an orange stain under a black light. The physician found no corneal lesion and no increased uptake (no orange stain). However, the Plaintiff’s expert indicated that an injury to the sclera, as opposed to the cornea, might not be apparent with corneal fluorescein staining.

Defense and Risk Management Concerns:

1. Our insured requested that defense counsel contact the emergency physician who trained him. The emergency physician indicated that our physician was obligated to rule out an intraocular foreign body before discharging the patient. This is particularly true since the patient had what may have been a lesion just beneath the eye that was the source of entry for the foreign object, as well as evidence of a subconjunctival hemorrhage. In an Emergency Room setting, the patient would have undergone a CT scan to detect a foreign body, but that was not required in an office setting. However, our physician should have referred the patient to an ophthalmologist for an urgent follow-up evaluation.
2. Defense counsel contacted several ophthalmologists and emergency physicians. None would agree to serve as expert witnesses on behalf of our physician.
3. A language barrier may have been part of the problem in the failure to communicate as there was no interpreter. The patient speaks little English and our physician speaks no Spanish.
4. When our physician initially reported the claim, he defended the fact that he did not examine the eye with an ophthalmoscope nor did he X-ray the eye. He further indicated that insurance companies do not always approve or allow extensive testing, X-rays, etc.

Disposition

There was a potential sympathy factor which was of great concern to us; especially in this particular jurisdiction. We were unable to find an expert witness to support the physician. Accordingly, the case was settled out of court substantially below our policy limits.

In summary, this case may have had a different result if the Minor Emergency Clinic physician had referred the patient to a facility capable of identifying and treating patients with intraocular foreign bodies. One question will go unanswered: If the physician had focused on the patient’s original complaint (eye injury), would the outcome have been the same?