When following CT guidelines isn't enough

AN 86-YEAR-OLD MAN ON WARFARIN FAINTED AND FELL while baby-sitting his great-grandchildren. He had transient neurologic symptoms after collapsing but appeared normal by the time paramedics arrived. He was taken by private vehicle to the hospital, where an emergency department (ED) physician examined him. After tests for a myocardial infarction revealed normal enzymes, electrocardiogram, and chest radiograph, the patient was discharged home.

He returned to the hospital the following day and underwent a computed tomography (CT) scan, which showed a large cerebral hemorrhage. He died soon afterward.

PLAINTIFF'S CLAIM The patient should have had a CT scan during the first ED visit. A scan at that visit would have found the hemorrhage in time to save the patient's life.

THE DEFENSE No discussion with family members about a blow to the head or head trauma occurred, and a CT scan wasn't requested. The patient didn't meet criteria for a head scan. Even if a scan had been done at the initial visit, it might not have revealed the bleed. Moreover, the patient's age decreased the likelihood that earlier detection would have changed the outcome.

VERDICT Confidential Utah settlements. The hospital settled for a nominal sum early in the litigation process; the physician settled for a confidential amount immediately before trial.

COMMENT *Even when clear guidelines for imaging exist, taking care to weigh extenuating circumstances—in this case, that the patient was on warfarin—is critical.*

Failure to document treatment refusal proves costly

A 15-YEAR-OLD BOY lost consciousness at home on Halloween and needed cardiopulmonary resuscitation. When paramedics arrived on the scene, they found the boy conscious and breathing, so they left. The boy, who had a history of drug abuse, died 8 hours later of anoxic encephalopathy caused by cocaine and opiate intoxication.

PLAINTIFF'S CLAIM The paramedics were negligent in failing to evaluate the boy's condition properly and transport him to a hospital.

THE DEFENSE The paramedics left without assessing the boy because he and his father said they didn't want or need medical help. (The paramedics neglected to obtain signed refusal of treatment forms.)

VERDICT $5.1 million Illinois verdict.

COMMENT *Here is a $5 million verdict that hinges on the completion of forms for refusal of treatment, a remarkable reminder of the importance of documentation.*

Enlarging uterus goes uninvestigated

AT AN ANNUAL GYNECOLOGIC EXAMINATION, a woman's physician noted that her uterus had enlarged since her last visit and described it as "top size" in the chart. At the patient's next annual exam 21 months later, the uterus had grown to 14 weeks' gestational size.

Ten months after that, when the woman returned to her physician complaining of abdominal discomfort, her uterus was larger than at the previous examination. The physician advised her to consider a hysterectomy.

About 2 months later, the patient went to the doctor again because of increasing pelvic pressure. Her uterus was 18 to 20 weeks' gestational size. The physician ordered an ultrasound, which showed a large mass on each ovary and no fibroids or masses within the uterus. Magnetic resonance imaging confirmed the ultrasound findings.

The doctor referred the woman to an oncological gynecologist. She subsequently underwent an abdominal hysterectomy with

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COMMENTARY PROVIDED BY
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bilateral salpingo-oophorectomy and bilateral periaortic lymph node dissection. The pathology report described ovarian cancer with an ominous prognosis.

PLAINTIFF'S CLAIM The plaintiff alleged that the physician was negligent for failing to order testing when he first noticed the abnormal size of the uterus and at the patient's subsequent visits. Failure to do so at the first exam and subsequent visits was negligent and allowed the cancer to advance instead of allowing for surgery and cure at an early stage.

THE DEFENSE No information about the defense is available.

VERDICT $650,000 Maryland settlement.

COMMENT *It's never a good policy to ignore a changing physical exam without good documentation, including a clear discussion of medical decision making.*

The plaintiff alleged that the physician was negligent for failing to order testing when he first noticed the abnormal size of the uterus.

Third ED visit isn't the charm

A 39-YEAR-OLD QUADRIPLEGIC MAN went to the emergency department (ED) complaining of abdominal pain. His history included involvement in a shooting when he was 16, drug abuse, homelessness, and frequent visits to the ED, where the staff knew him to be combative and ignore medical advice. The ED physician who saw the man ordered a radiograph and other testing, then released him without a conclusive diagnosis.

A month later, the man came back to the ED by ambulance, complaining of severe abdominal pain that he'd had for 4 days. Another ED physician saw him but didn't make a diagnosis. After 4 hours, the hospital discharged the patient by ambulance to stay with family. When the family refused to accept him, the ambulance brought him back to the hospital.

With the involvement of social services, the patient was wheeled across the street to a motel. After about 5 hours, during which the motel staff said the patient was screaming in pain, the staff called an ambulance, which brought the man back to the ED covered with bloody vomit.

The same ED physician who had seen him earlier examined him, along with another ED physician. A fecal impaction was removed manually and a soap suds enema administered. The patient seemed to improve and, after about 7 hours, was released and rolled outside with a taxi voucher.

He said the hospital staff told him he was abusing the hospital's services and the police would be called if he returned. He was taken to the house of a family member, where he was found dead 4 hours later from a ruptured duodenal ulcer.

PLAINTIFF'S CLAIM The physician who saw the patient at the first ED visit should have diagnosed peptic ulcer disease; the doctors who saw the man at the second and third visits should have diagnosed the ruptured ulcer. The hospital violated the federal Emergency Medical Treatment and Labor Act (EMTALA) by failing to stabilize the patient before discharging him.

THE DEFENSE The patient was stable and improving each time he was discharged. The hospital denied threatening to arrest the patient if he returned to the ED after the third visit.

VERDICT $1.4 million Kentucky verdict. The first trial ended in a mistrial. All defendants except the hospital settled for undisclosed amounts before a second trial, at which the hospital was found to be 15% at fault and a $1.5 million award for punitive damages was assessed against the hospital for violating EMTALA.

The hospital appealed and the matter was returned for trial after a ruling that affirmed everything except the punitive damages. At the third trial, a jury awarded $1.4 million in punitive damages.

COMMENT *Most of us have a visceral reaction when faced with a drug abusing, noncompliant patient who frequently shows up at the ED. We must remember that such patients do get sick and that in this case, despite repeated visits to the ED, a tragedy occurred.* **JFP**