
The Patient Who Cried Wolf

By Tim Behan, JD

We are all familiar with Aesop's fable wherein a lonely shepherd boy seeks attention by crying out wolf. This trick brings villagers rushing to his side to protect the flock of sheep from an attack. But there is no wolf the first few times the boy shouts out this false alarm. When a real wolf does appear, the villagers do not believe the boy and thus do not come to his aid. As we know, the wolf inflicts great damage to the flock because the villagers believe the boy is lying once again. In the medical field, we are faced with these types of patients every day, whether they are seeking attention, or something more, with what we may perceive to be lies. They cry wolf and we tire of their false tales. But unlike the villagers who suffer no harm from the boy's lies, we in the health care field must fully inquire every time a patient raises an alarm. Failing to do so greatly increases the risk that we will become the sheep at the mercy of the medical malpractice wolf.

This truth is evidenced by a case SVMIC defended a few years ago. A 40-year-old female with a history of lower back issues and drug seeking behavior presented to a somewhat rural emergency department where everybody was well familiar with her frequent attempts to secure narcotics. This was her fifth visit in four months. On this particular presentation, she gave a history of sharp pain; almost like being stabbed in her spine, after trying to pick up a heavy object at home earlier that day. The patient was a bit more hysterical than usual and the doctor was having a difficult time assessing her. The doctor was eventually able to conduct a physical exam. This exam did not include ambulating or obtaining any images. The patient was uncooperative and seemed to be upping the ante for drugs by complaining of great pain out of proportion to the physical findings. The doctor documented the exam as essentially normal. A non-narcotic pain reliever was prescribed, instructions were given, and the patient was discharged.

When an ED nurse came to the exam room to ready the patient for home, she found her on the floor complaining that her legs were numb and that she was having trouble walking. The nurse assisted the patient to the wheelchair and rolled her to a waiting vehicle. During this short trip, the patient reported that she had urinated all over herself and needed to go back inside the hospital. It appeared to the nurse that this was a last ditch attempt to get stronger pain medication. The patient was told that her neurologic exam was normal because the doctor saw the patient move her legs in the exam room and thus there was no need for further evaluation. While the nurse did note the complaints of numbness and alleged incontinence, this information did not make it back to the doctor. A few days later, well past 72 hours from the initial incident at home, the patient went to a different facility. There a CT and follow-up MRI were ordered. The patient was diagnosed with a large lumbar disc rupture resulting in cauda equina syndrome. Surgical intervention occurred,

but it was too late to reverse the significant neurologic deficits.

As expected, a lawsuit was filed against the doctor and the hospital. The main allegations against the doctor were for failure to: perform a more thorough examination, order diagnostic studies, refer to a neurosurgeon, and to stabilize the patient before discharging her home. The hospital was accused chiefly of EMTALA violations. A vigorous defense was attempted, but it was clear based on the actions and inactions of all involved, that the patient's complaints were not taken seriously. Everyone believed she was lying to get narcotics. She cried wolf one too many times, the villagers did not come to her assistance, and the medical malpractice wolf ate heartily to the tune of a substantial settlement from all involved.

"A liar will not be believed, even when he speaks the truth." Aesop

The contents of The Sentinel are intended for educational/informational purposes only and do not constitute legal advice. Policyholders are urged to consult with their personal attorney for legal advice, as specific legal requirements may vary from state to state and/or change over time.