

Malpractice Case Discussions III

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What Every Physician Should Know

June 2008

66 yr old woman

Seen by cardiologist for follow-up (patient x 4 yrs)

CC: Chronic SOB with mild-moderate exertion

No chest pain

PMH: MI w/ intervention LAD (2004)

Echo - Anterior wall hypokinesis, EF 25% (2007)

Meds: Prinivil, Aspirin, Beta Blocker, Zocor

SH: 50 pack years (ended 2004)

Married x 40 yrs, retired secretary

Two adult daughters

FH/ROS: Unremarkable



Physical Exam

Obese, significant abdominal girth
5'2" 229 lbs.

Pulse 68, 118/72, RR 18

Normal S1, S2, distant heart sounds

Chest – clear

Abdomen – protuberant, soft

Trace edema

ECG: SR 66, Anterior Q waves



Cardiologist noted that low EF & previous MI put patient at increased risk of sudden death

Recommended implantable defibrillator

Patient agreed

Referred to electrophysiologist

The cardiologist did not obtain the patient's informed consent for the defibrillator.



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Seen by EP

Exam unchanged

Defibrillator discussed

Informed consent obtained



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Specifics of Informed Consent

Procedure: Implant a Cardiac Defibrillator

Benefits: Prevent sudden death

Risks: Blood loss, pocket or blood infection, lung collapse, injury to blood vessels or heart, stroke, fibrillation, reaction to medications, death

Alternatives: Do nothing



July 2008

Procedure performed in EP lab at hospital

Initially uneventful

Ventricle perforated

SBP 80, 60, 50

Multiple attempts to tap pericardium
unsuccessful. Unable to clear lower edge of
costal margin due to massive abdomen.



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Pericardial sack was eventually reached with approach described in the op note as:

“Inserting an introducer needle 4-6 inches below the xiphoid and slightly right of the midline, angled toward the left shoulder.”



Post-pericardiocentesis

SBP recovered to 100

Patient transferred to ICU

Stabilized

Awake and alert



1 day post-op

Pt c/o abdominal pain

HCT decreased from 32 to 25

CT scan – Blood in peritoneal space

Probable laceration of left lobe of liver



Exploratory Laparotomy

Liver injury repaired

Transfused 4 units

Post-op course complicated by fevers, delayed wound healing, continued blood loss, CHF

Patient eventually discharged on 15th hospital day



Sept 2008 (1 month post-discharge)

Seen by surgeon

Wound healing

HCT stable

Rx - Normal diet, increased activity



Oct 2008 (2 month post-discharge)

Seen by EP

No complaints

Defibrillator check – Fully functional



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Legal History



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June 2009 (10 months post-discharge)

Patient files lawsuit against:

Cardiologist

EP

Hospital

Surgeon not sued



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Lawsuit Allegations

Against EP:

Failure to properly implant defibrillator

Failure to recognize tamponade in a timely manner

Reckless performance of pericardiocentesis

Violation of patient's informed consent by failing to discuss the risk of liver injury



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Lawsuit Allegations (cont)

Against Cardiologist:

Failure to obtain patient's informed consent

Failure to properly manage post-op CHF



Due to the alleged reckless nature of the EP's conduct, the complaint demanded an unspecified amount of punitive damages.



Legal Disposition



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At her deposition, the patient testified that no one told her about the risk of liver injury.

She further stated that, had she known about the risk of liver injury, she would not have undergone the procedure.



At the cardiologist's deposition, he admitted that he did not discuss the specific risks of the procedure with the patient.



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At his deposition, the EP stated that he was fellowship-trained, boarded in EP, and implanted approximately 500 cardiac devices per year.

He described the procedure as “textbook” until the patient’s BP dropped.

He could not cite one article or study supporting the technique that he used for the pericardiocentesis.

He stated that he used the introducer needle in the unusual manner because it was the only thing he could think to do.



The defense was unable to have the demand for punitive damages dismissed.

The EP agreed to settle the case for \$325,000.

The referring cardiologist and the hospital were released without payment.



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