Claim Review

Patient Complaints Addressed Too Late

A 60-year-old man develops pain, swelling and weakness in his right lower leg following knee replacement surgery. His orthopedic surgeon does not diagnose a popliteal pseudoaneurysm until six weeks after surgery, leaving him with a permanent nerve injury and mobility problems.

SPECIALTY	ALLEGATION	PATIENT SAFETY & RISK MANAGEMENT FOCUS
⁄ Orthopedic surgery	⁄ Improper performance of total knee arthroplasty ⁄ Improper management of surgical patient	⁄ Repeat patient complaints postoperatively ⁄ Informed consent

28%

of surgical claims cite orthopedic surgeons as the clinician most responsible for care at time of alleged injury

Facts of the claim

An orthopedic surgeon performed a right total knee arthroplasty (TKA) on a 60-year-old man with a history of right knee pain and osteoarthritis. Six days later on a Friday afternoon, the man called the orthopedist's office complaining of pain and swelling in his right knee and calf. The office team member told the man to keep his orthopedic appointment the following week and to follow the postoperative instructions to use ice and elevation for swelling. The next week, the orthopedist examined the man who was still complaining of right lower leg pain, swelling and weakness. The orthopedist ordered a duplex exam, which showed no evidence of a deep vein thrombosis.

Over the next several weeks, the man continued to complain of pain, swelling and weakness in his right lower leg for which he called the orthopedist's office several times. Six weeks after surgery, the man went to his local hospital emergency department (ED) with complaints of right lower leg pain, swelling and weakness. The ED physician ordered a Doppler ultrasound of the right knee, which showed a pseudoaneurysm of the popliteal artery. A vascular surgeon was consulted, and he performed a repair of the pseudoaneurysm.

The man suffered a permanent nerve injury and foot drop. He was unable to return to work and later filed a malpractice claim against the orthopedist alleging improper performance of surgery, failure to obtain informed consent and improper postoperative management.

Disposition of the claim
The malpractice claim was settled against the orthopedist.

Risk and patient safety perspective
The experts who reviewed the care felt that the popliteal artery was injured during surgery, causing the man to develop the pseudoaneurysm, which put pressure on the peroneal nerve, leading to the nerve injury and foot drop. The experts were critical of the delay in diagnosing the pseudoaneurysm, considering the man made repeated complaints of pain, swelling and lower leg weakness.

The experts were also critical of the orthopedist's office team in the handling of the man's repeated telephone calls complaining of continued symptoms. The involved orthopedic office team members testified that they did not have formal telephone triage protocols to manage postoperative patients.

The man testified that he complained of severe pain and swelling postoperatively but that the surgeon did not listen to him. He also testified that the orthopedist did not tell him that a nerve injury was a possible risk and complication of surgery.

Top malpractice allegations against orthopedics
In our analysis of Constellation surgical malpractice claims, the most frequently cited clinician responsible for care at the time of the alleged surgical injury is the orthopedic surgeon, accounting for 28% of claims and 20% of costs.

Risk and patient safety strategies
Understanding the factors driving orthopedic patient injuries and resulting malpractice claims is a first step in protecting patients, orthopedists and their organizations. Orthopedists and their office teams should review their risk and patient safety program and consider the following recommended strategies.

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For orthopedic surgeons:

- ☐ Use a preoperative risk assessment and stratification system including a full review of surgical risk factors and previous surgical histories and comorbidities, including visits with specialists for each comorbidity, to ensure readiness for surgery
- ☐ Ensure full consideration of all available clinical information, including medical–surgical history, previous complications and input from specialists when determining surgical procedure/approach
- ☐ Employ evidence-based guidelines to manage risks, including surgical site infections, venous thromboembolism prophylaxis and acute pain management (including prescription opioids)
- ☐ Improve and maintain technical skills and practice with awareness of nerve and adjacent structure injury
- ☐ Facilitate regular case review conferences to maintain perspective on surgical treatment decisions
- ☐ Implement a patient-centered shared decision-making model for educating and obtaining informed consent that includes a discussion of realistic expectations and goals
- ☐ Use web-based patient education and informed consent tools to supplement the informed consent discussion and reinforce expectations
- ☐ Educate patients and families on key signs and symptoms of postoperative complications, and encourage them to speak up with any concerns

For orthopedic care teams:

- ☐ Implement a notification trigger tool to communicate among the care team during transitions of care
- ☐ Provide education for surgical office team members responsible for telephone or electronic communications with patients regarding symptoms or questions
- ☐ Utilize evidence-based written protocols for triaging patient symptoms postoperatively
- ☐ Document all communication with patients in the medical record concerning informed consent discussions, postoperative instructions and postoperative communication regarding symptoms
- ☐ Train care team in empathic communication with patients and families

LORI ATKINSON, RN, BSN, CPHRM, CPPS
Content Manager and Patient Safety Expert
Constellation
Lori.Atkinson@ConstellationMutual.com

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