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HAND SURGERY-SURGICAL ERRORS

Hand Surgery-Surgical Errors:
When it is Complication and When it is Negligence
Orthopedic Surgeon from Texas

Performing Hand Surgery is somewhat precarious. In the hand, there are a multitude of important structures and a rather small and compact area. When performing hand surgery these structures can be injured by the surgeon. When is an iatrogenic injury a surgical complication and when is it a surgical negligence/malpractice? The question frequently arises in hand surgery, is it poor surgical result because of the complication or is it because of negligence? Unacceptable level of medical care is the level of care given by a reasonable and prudent physician in the same or similar circumstance.

The first consideration before performing hand surgery is that an informed consent must be given. The patient must be informed that adjacent, nearby structures may be injured by the surgeon during a hand surgery case. If, for example, a surgeon cuts the median nerve during a carpal tunnel release and informed consent has been given telling the patient that nerves may be inadvertently injured by the surgeon; this inadvertent iatrogenic injury was not recognized by the surgeon and was in the operative field, then, there is a failure to diagnose a negligent act.

An exception to this would be if the iatrogenic nerve injury was not in the operative field, for example in a blind endoscopic carpal tunnel release where the iatrogenic injury would not be ordinarily visible in the operative field. The iatrogenic nerve must then be diagnosed in the early post-op period by performing a careful post-op history and physical exam and comparing this exam to a careful pre-op exam which is required before performing surgery.

If a surgeon fails to recognize his iatrogenic nerve injury to the patient either operatively or early post operatively, then this failure to diagnose becomes negligence or an unacceptable level of medical care rather than a complication and this failure to diagnose leads to permanent damages to the patient. If however, the surgeon recognizes the iatrogenic nerve injury in the operative and or early post-op period and treats it appropriately early and correctly then the iatrogenic injury may

be a complication. An iatrogenic nerve injury which is diagnosed instead at a delayed period of time, greater than three weeks, then this becomes unacceptable care rather than a complication. If an injured nerve is repaired at an earlier stage either during the original surgery or in the early post-op period then a primary nerve repair can be done: otherwise a nerve grafting procedure would be necessary with a significantly less favorable result.

The damages that occur from an iatrogenic injury during surgery must be evaluated in light of informed consent and timing of correct diagnosis and treatment of the iatrogenic injury. An iatrogenic injury, with proper informed consent, to the patient may only be a complication if the injury is promptly diagnosed and promptly treated. The key elements are informed consent, prompt and correct diagnosis and treatment to this iatrogenic injury.

There are numerous experts who are more than willing to provide testimony for medical malpractice and personal injury litigation cases. Finding the right one is crucial to the strength of your particular case.

Since 1983, Medical Advisors has assisted in the selection of expert witnesses in several thousand cases. Working with plaintiff and defense bar, we have provided medical opinions and testimony which have resulted in competent preparation and in-court support for cases involving medical malpractice, hospital negligence, personal injury, workers' compensation and product liability.

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