

# CASE CLOSED

VOLUME 22 • ISSUE 2

SPRING 2016

A risk management publication for PICA policyholders.

## IN THIS CASE...

it was determined the podiatric physician failed to obtain appropriate surgical clearance.

**PICA**  
Treated Fairly

A ProAssurance Company

(800) 251-5727  
www.picagroup.com

*The information contained in this article does not establish a standard of care. The information is for general informational purposes only and is written from a risk management perspective to aid in reducing professional liability exposure. You are encouraged to consult with your personal attorney for specific legal advice.*

## PATIENT AND CONDITION

The patient was 66 years old at the time of treatment related to this case. He was a long-term patient of the insured podiatric physician with a history of insulin-controlled diabetes, hypertension and peripheral arterial disease.

## TREATMENT

The patient presented to the insured for a diabetic foot exam and treatment of a painful, soft corn on the left 5th toe. The insured instructed the patient on appropriate shoe gear, padded the area and told the patient to return in one week. The insured noted in his progress note that he would send the patient for a vascular exam to determine if the patient was a surgical candidate.

The patient returned one week later and reported changes in shoe gear and padding had not decreased the pain in his toe. Dorsalis pedis and posterior tibial pulses were noted to be 0/4 bilaterally. The insured discussed surgery with the patient and documented in his progress note that the patient was having a vascular exam in the next few weeks.

The insured continued to treat the patient conservatively over the next six months. During that time, the patient also developed a painful corn on his left 4th toe. The insured again discussed surgery with the patient. The patient consented, and two months later, the insured performed a partial excision of the middle and distal phalanx of the 4th and 5th toes, left foot.

## INJURY

The patient presented to the insured's office for his first post-op appointment and was seen by a staff member of the insured. The staff member noted the patient's toes were discolored and turning black. The staff member called the insured who advised her to prescribe Cephalexin and ask the patient to return in three days.

The patient returned three days later and was evaluated by the insured. The patient's left 4th and 5th toes were noted to be black and gangrenous. No signs of infection were noted and the insured diagnosed dry gangrene. He advised the patient that he would likely lose the toes. The insured arranged for a referral to a vascular surgeon the following day.

The patient underwent amputation of the left 3rd, 4th and 5th toes with subsequent transmetatarsal amputation of the left foot. The patient also underwent a femoral posterior-tibial bypass and an angioplasty to restore adequate blood flow to preserve the skin graft on the left foot.

The patient sued the insured podiatric physician.

**The patient returned one week later and reported changes in shoe gear and padding had not decreased the pain in his toe.**

## ALLEGATIONS

- Performance of unnecessary surgery
- Failure to obtain vascular clearance prior to performing surgery on a patient with a documented history of vascular disease
- Failure to obtain sufficient informed consent
- Failure to provide timely post-op follow-up
- Failure to provide adequate post-op management





### DEFENDING THE CLAIM

The case was reviewed by several podiatric experts, none of whom could fully support the insured's treatment of the patient. They concurred that the insured should have obtained vascular workup prior to

considering surgery. Additionally, the experts felt the insured should have personally evaluated the patient at his first post-op appointment instead of having a staff member evaluate the patient.

### OUTCOME

The defense team, including the insured podiatric physician, agreed that this lawsuit should be settled. Mediation ensued and the case was appropriately resolved.

## RISK MANAGEMENT POINTERS

- ▶ **Thoroughly evaluate the patient** prior to surgery and obtain appropriate pre-operative testing or surgical clearance, if indicated.
- ▶ **Implement a fail-safe system**, such as a pre-operative checklist, to ensure that all pre-operative testing and consultations are received and reviewed prior to performing surgery.
- ▶ **Ensure that post-operative** patients are seen and evaluated in accordance with the appropriate standard of care.

– Barbara Bellione, RN, CPHRM, ARM  
Director of Risk Management

