Tracking Matters

By J. Baugh, JD, CPA

Henry Jackson[1], a 50-year-old male patient, presented to the ER at a hospital near his home where he was seen for cold symptoms and progressively worsening headaches that were not responding to medication. The ER physician ordered a CT scan for Mr. Jackson. The scan showed sinusitis in the ethmoid and sphenoid sinuses, but the maxillary and frontal sinuses appeared clear. The radiologist's report also noted a small amount of erosion of the bone in the ethmoid area. The radiologist's impression was "maxillary ethmoid sinusitis versus mass." The ER physician and the radiologist discussed the fact that this was an unusual sinus pattern for someone without a history of sinus disease and without having sinus disease elsewhere. The ER physician instructed Mr. Jackson to follow-up with an ENT physician in two weeks to make sure that this was nothing more serious than an atypical sinusitis.

Mr. Jackson presented to the office of an ENT physician 3 days later. The ENT physician noted that Mr. Jackson's headaches had started 5 days earlier and that the headaches had worsened over that time, including the time since Mr. Jackson had presented to the ER. The ENT physician reviewed the CT scan from the ER presentation and noted the scan showed "complete opacification of the left sphenoid and near total opacification of the right sphenoid sinus with no other significant sinus pathology." The ENT physician assessed Mr. Jackson's condition as "severe acute sphenoid sinusitis with excruciating pain and pressure with possible early meningeal signs" and immediately admitted Mr. Jackson to the hospital. An MRI was taken at the hospital, and the radiologist's impressions were "complete opacification of a somewhat expanded appearing left sphenoid sinus, suggestive in appearance of a sphenoid sinus mucocele, extensive but partial opacification in the right sphenoid sinus and posterior ethmoid air cells bilaterally, indicative of chronic sinusitis, and an otherwise normal study."

The next day, Mr. Jackson informed the ENT physician that he felt great and wanted to go home. The ENT physician noted the MRI revealed "a probable mucocele at sphenoid, sinusitis ethmoid/sphenoid at right." He also noted that Mr. Jackson's condition had improved, so he discharged him from the hospital. The medical chart indicates that the ENT physician wanted Mr. Jackson to make a follow-up appointment within 2 weeks at which time another CT scan would be taken. Unfortunately, the day of discharge from the hospital was the last time the ENT physician had any contact with Mr. Jackson or any of his family.

Mr. Jackson presented to the office of his PCP approximately one year later for treatment of severe intermittent sinus headaches that had returned. A CT scan that was taken a few

days later showed that “a neoplastic process is a likely consideration.” Biopsies were taken and an MRI was performed, and both confirmed that Mr. Jackson had a sinus adenocarcinoma. Mr. Jackson died approximately 6 months after the diagnosis.

Mr. Jackson’s estate filed suit against the ENT physician and against the radiologist who read the CT scan during the initial hospitalization. The ENT physician initially believed that Mr. Jackson had simply failed to make a follow-up appointment as instructed. However, during the lawsuit discovery process, the attorney representing the ENT physician learned that, although the appointment had been made by Mr. Jackson, it was canceled by the ENT physician’s office because he had a family emergency that required him to be out of town for a week. The records did not identify which staff member in the ENT physician’s office had called Mr. Jackson to cancel the appointment or how the matter of rescheduling the appointment was addressed with the patient. The records showed only that the appointment was canceled. No new appointment was made for Mr. Jackson. Because of the cancelation of this appointment by the ENT physician’s office and because there was no system in place to advise the physician when canceled appointments were not rescheduled, the decision was made to compromise the case on behalf of the ENT physician. The claim against the radiologist went to trial and resulted in a defense verdict for the radiologist.

This case specifically highlights the need for the physician and his/her office staff to have an appropriate tracking system in place so that all ordered tests, studies and appointments are completed and have appropriate follow-up. This tracking process should include steps to be taken if these orders are canceled or not performed for any reason. It is certainly understandable if a physician has to cancel an appointment for a legitimate reason, as was the case with the ENT physician having to go out of town for a family emergency. However, it would have been difficult to convince a jury that the ENT physician and/or someone on the ENT physician’s staff acted within the standard of care by not rescheduling the appointment for a later date.

This case also points to the need for the physician to discuss with the patient (and document) the reasoning for tests and studies. The patient in this case testified in his deposition that he did not reschedule the appointment because he was not made aware of the importance of the follow-up CT scan. In his mind, if the CT scan was important, the ENT physician’s office would have rescheduled the appointment. In other words, the patient unfortunately interpreted the cancelation by the physician’s office as an indication that the follow-up CT scan was not important and necessary. Better communication would have possibly changed the outcome for this patient.

[1] All names and other identifying information from this factual situation have been changed to protect the parties’ identities.

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