An Overview of Podiatry Risk and Patient Safety Issues

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Introduction

Podiatry Medical Malpractice Statistics

The National Practitioner Data Bank (NPDB) is an electronic information repository created by Congress. It contains information on medical malpractice payments and certain adverse actions related to health care practitioners, entities, providers, and suppliers. Federal law specifies the types of actions reported to the NPDB, who submits the reports, and who queries to obtain copies of the reports. Organizations must be authorized according to federal law to submit reports and/or query the NPDB. Organizations authorized to access these reports use them to make licensing, credentialing, privileging, or employment decisions. Individuals and organizations who are subjects of these reports have access to their own information. The reports are confidential and not available to the public.[1]

This Adverse Action and Medical Malpractice Payment report is specific to United States Podiatrists, reflecting medical malpractice payment and adverse action information, including state licensure and certification actions, clinical privileges/panel membership and professional society membership actions, and HHS/OIG and DEA actions.

2,873 paid malpractice cases were reported to the NPDB on behalf of U.S. podiatrists between calendar years 2004-2014.[2]
Podiatrist Medical Malpractice Payment Reports (2004-2014)[i]

[i] IBID

Common medical malpractice claims involving the foot

Surgical podiatrists share a number of the same risks as do orthopedic surgeons who operate on the foot and ankle, although there may be fine distinctions in the standard of care. In some states, orthopedic surgeons are allowed to testify as an expert witness either for or against a podiatrist.[4] According to the literature[5][6] the following top ten areas are most commonly associated with medical malpractice claims involving surgical podiatry:

- Amputation.
- Reflex Sympathetic Dystrophy Syndrome (RSDS a.k.a., Chronic Regional Pain Syndrome) is a highly debilitating condition that can develop following foot surgery or trauma. The development of this complication is not necessarily negligence, but the failure to diagnose or to timely and properly treat the disease may be negligent.
- Hallux Varus Deformity. Hallux Varus is a complication resulting from bunion surgery.
- Non Union. A bony non-union is by definition a surgical or traumatic fracture which has not healed. Between six weeks and six months post-incident, the process is called a delayed union. A claim may involve either failure to diagnose the delayed union or failure to treat it properly whereby the condition progresses to the non-union. There may also be an allegation that the development of the delayed union resulted from improperly performed surgery.
- Heel surgery/plantar fasciitis. Heel pain is one of the main ailments that foot physicians treat. The heel is a highly innervated area; injuries involving nerve damage or outright nerve severing, with resultant chronic pain, may lead to a malpractice claim.
- Tarsal tunnel surgery. Tarsal tunnel syndrome is of the ankle what carpal tunnel syndrome of the wrist. Many foot surgeons decline to perform tarsal tunnel surgery because of the high incidence of poor results.
- Diabetic patients. Diabetic patients are considered high risk, presenting with several unique morbidities, including poor circulation, nerve damage, and lowered ability to fight infections, making them susceptible to poor foot surgery outcomes.
- Infections. Infections account for a disproportionate number of foot claims. Infection per say post-surgery is not medical negligence. The main causes of action in foot infection cases involve either a failure to make a timely diagnosis of infection or failure to treat properly.
- Wrong Side Surgery. Despite wide spread publicity of wrong side amputation cases, wrong side surgery continues to be a major battle that the medical community faces.
- Synovial Sarcoma. Synovial sarcoma is a rare, malignant tumor which can initially present in the foot. Because synovial sarcoma, and other malignant soft tissue tumors are rare in the foot, most of these cases involve failure to diagnose and on the causation issue of proving that if the diagnosis had been made in a timely manner the patient would have survived or would not have lost their leg.
- Cosmetic foot surgery. Cosmetic procedures on the foot generally involve foot surgery done in the absence of pain to create a different appearance to the foot, even when deformities are absent. As with plastic surgery procedures, some people undergoing cosmetic foot surgery may be unhappy with the results, giving way to a negligence claim.

Managing the Podiatrist’s Risk—Enhancing Patient Safety

Current and pertinent issues in podiatry patient safety focus on the following areas of practice:

- “Universal protocol” and preventing wrong site surgery
  - Encouraged by multiple organizations and includes pre-op verification, site marking (the “sign your site” initiative which was a direct result of a 1997 task force), and time outs.
• Fall prevention
• Infection prevention
  ○ In the last 5-6 years, MRSA screening and control protocols for trauma patients as well as for elective surgical patients have contributed to decreasing MRSA infection rates in orthopedic patients. Hand hygiene should be carried beyond the operating room.
• Communication
  ○ Communication issues are reported in 26% of orthopedic incidents[CL1]. Safe handoffs and good communication tools are essential and include briefings, debriefings, time outs, and speaking up by staff members. This parallels and overlaps informed consent, an issue that can lead to litigation if not done effectively with the patient.
• Consistent documentation and medication reconciliation
• DVT prophylaxis and prevention of symptomatic PE’s published guidelines.

Mag Mutual Services for Podiatry Policyholders?

The MagMutual Patient Safety Institute has developed a variety of patient safety services for our podiatry policyholders, including but not limited to:

- patient safety monthly newsletters highlighting closed claims with a discussion of “lessons learned” from each case
- on-site risk assessment, CME, CNE, and staff education
- online risk assessments
- Learning modules specifically designed for office staff
- A series of articles and “safety spotlights” available online
- Practice specific benchmarking data is available by request
- Webinars for continuing education credit
- Collaboration and consultation with Patient Safety Institute staff Hot-line risk and patient safety telephone consultations
- Free Risk and Patient Safety Webinars
- The HIPAA tool kit and a variety of other articles, alerts and advisories

Podiatry presents some unique risk and patient safety challenges, but not beyond the capabilities of our seasoned Patient Safety Consultants. We are available to assist the podiatrist in mitigating these risks, as well as customizing plans for individual podiatry practices.


[3] IBID


The information provided in this resource does not constitute legal, medical or any other professional advice, nor does it establish a standard of care. This resource has been created as an aid to you in your practice. The ultimate decision on how to use the information provided rests solely with you, the PolicyOwner.


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