

Pain Management Malpractice?

CASE PRESENTATION

John Doe was put on narcotics by a pain management clinic for ankylosing spondylitis with facet joint arthropathy in 2005. In 2006, he got into a near fatal car accident that put him in the hospital for 47 days. He lost his job and was forced into bankruptcy.

John believes that the combination of hydrocodone and oxycontin impaired his ability to see the SUV that hit me. After getting out of the hospital he requested to be taken off the narcotics. He was told that he would have to be on "something" the rest of his life and was put on methadone. He stated that he was already on psychiatric drugs and was a "zombie" for nearly four years.

When he asked again to be taken off the narcotics, pain management told him that he had to come off the Klonopin before he could attempt coming off methadone. He nearly had seizures coming off the Klonopin titration, which triggered severe paralyzing panic attacks. Pain management started titration off the methadone and he became psychotic and nearly succeeded in a suicide attempt on June 2010. He was put in the psychiatric ward and found out that the only way anyone can successfully detox is with medication under medical supervision.

John thinks that the pain management over-prescribed narcotics for his condition during a five year period without ever reviewing the necessity. In September 2010, John went to another pain clinic for treatment and was weaned off narcotics. Since he has been off narcotics, his back pain is being effectively controlled with a non-steroidal NSAID, prescribed by a different physician.

John states that he lost 5 years of his life and he finds it paradoxical that on one hand the pain management facility where he was initially treated had three pain clinics "creating addicts" while on the other hand the facility ran a detox program.

He asked,

1. "Do you know of anyone who has successfully sued a pain management clinic for narcotic addiction?"
2. Does he have a malpractice case for being totally mis-managed for 5 years beginning in 2005, all by the same facility?

ANSWER

1. First, John should seek help from the following organizations:
 - a. The local Mental Health Association that may have experienced advocates for patients. John should not be afraid to talk to a Mental Health Association. They may know something about the doctor(s) that treated John.
 - b. The local County Mental Health Department. They may have an addiction section and people who are experienced handling patients with addictions. They may resist getting into a malpractice lawsuit, but they may be able to give solid help getting out of this “drug trap”.
 - c. The Pain Management section of a local Medical School. It is worth a try.
 - d. Call the local Bar Association and ask for the names of lawyers who have experience in psychiatric malpractice.
2. If all of the medical advice during the 5-year-period was delivered by an employee or staff member of the same pain management organization, the statute of limitations should be in effect until two years after the treatment stopped from that clinic. Thus, from that standpoint, John has a chance to sue for compensation.
3. Psychiatric cases are tough for both lawyers and doctors.
4. Some psychiatrists seem to have problems with handling combinations of medications. Some accept what is told to them by employees of pharmaceutical companies, which may be a failing.
5. The lawyer is going to have one tough time finding an expert who will help the patient in this situation. The expert is going to have to be very intelligent, have an imagination and courage. That may prove to be a hard expert to find.
6. Some lawyers are more experienced in pain management malpractice than others. John should talk to several malpractice lawyers before he gives up.
7. The lawyer should start, not by trying to find expert psychiatrist, but by finding an expert pharmacologist. If the expert pharmacologist works out and agrees that there is a malpractice case, then the lawyer can try to find a psychiatrist to help.
8. The road ahead for John is rough, and it is not at all certain that he is going to find a lawyer who can help him. He has a tough job ahead, and he seems to know that.