

UNDERSTANDING MISDIAGNOSIS RISK IN RADIATION ONCOLOGY

Prepared on behalf of National Medical Professional RRG, Inc.



INTRODUCTION

Cancer diagnosis is usually the job of the diagnostic radiologist or other referring specialist. However, this aspect of cancer care does not alleviate the radiation oncologist from certain responsibilities involving proper diagnosis. A radiation oncologist can be found negligent in cases involving improper diagnosis even though the primary responsibility falls upon another physician. The radiation oncologist must understand his or her role after the initial diagnosis in order to mitigate this common cause of medical malpractice suits. The following examples illustrate these risks.

FIRST CASE REPORT

A radiation oncologist was brought into a lawsuit involving the referring physician for treating a patient that had been diagnosed incorrectly. Initially, the orthopedist and the diagnostic radiologist reviewed the CT scan of the spine, which revealed a lytic destructive process that is consistent with multiple myeloma. Both physicians concurred that this was a tumor destroying the spinal canal and recommended radiation therapy as an emergent procedure. For this reason, the radiation oncologist did not hesitate to treat the spine for this malignancy. The radiation oncologist had already performed ten fractions on the spine when it was discovered that the patient was actually suffering from osteomyelitis. The lawyers argued that over the two-week course of treatment, the patient suffered significant vertebral bone destruction and a spinal injury. They also alleged that the radiation oncologist negligently administered therapy without first arriving at a correct diagnosis. Specifically, the plaintiff argued that the radiation oncologist should have corrected the diagnosis through an examination of the scans used to perform the treatment. The case was ultimately settled out of court and, including legal fees, cost close to \$500,000.

SECOND CASE REPORT

An elderly patient who had suffered from colon cancer was diagnosed with a brain metastasis after a CT scan indicated an enhancing mass in the superior aspect of

the right hemisphere with surrounding edema. The radiation oncologist reviewed the films from the CT scan and concurred with the referring doctor that it could be a metastatic lesion and began treatment immediately due to fears that the patient would soon become symptomatic. Four months later, after an MRI was performed, a consulting doctor believed that the growth was more typical of a meningioma. The patient was in and out of the hospital until her death four years later. The patient's husband subsequently sued the radiation oncologist for not performing an MRI before he proceeded with radiation – a measure the plaintiff attorneys claimed deviated from the accepted standard of care. It was also alleged that the radiation oncologist should have been more suspicious of the diagnosis given that colon cancer has a propensity to spread to the lungs and liver before spreading to the brain. Additionally, the impression in the radiology report was that the enhancing mass on the CT scan was “most likely representing a metastatic lesion”. The plaintiff attorney argued that this ambiguity should have been clarified by the radiation oncologist prior to treatment. The case ultimately was settled for \$300,000.

RECOMMENDATIONS

In both of these examples, the radiation oncologist performed the treatment correctly based on the initial diagnosis but was sued for failing to correct the misdiagnosis during the treatment process. The above examples highlight several important takeaways for the physician:

- Radiation oncologists can be found liable in cases involving improper diagnosis even though their primary responsibility is therapeutic.
- Radiation oncologists must actively investigate potential avenues for misdiagnosis prior to treatment, especially if they identify inconsistencies in the patient's record. Passively accepting all diagnostic reports and proceeding to treat the patient increases the risk of a bad outcome.

- Err on the side of caution; questioning the diagnosis that forms the basis of the patient's treatment plan should be integrated into the standard evaluation of every patient.
- Be sure to review all diagnostic imaging and the treating physician's medical records prior to treatment; do not just rely on the report. Any concerns should be reviewed with the radiologist and the primary treating oncologist or other specialists involved in the care of the patient.

From a legal perspective, the diagnostic aspect of your patient's radiation therapy treatment is an essential element of the accepted standard of care. For the radiation oncologist, validation of the proper diagnosis will ensure the best outcome for both the patient and your practice.