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12/6/23

GA Insurance Commissioner
2 M.L.K. Jr Dr SE #716
Atlanta, GA 30334
Fax: 404-657-8540 (Consumer Complaint Division)

RE: LH,
DOB: redacted

To Whom It May Concern:

I am writing on behalf of the patient LH who has given me permission to share her medical information for this complaint.

I am writing to hopefully engender an investigation against the insurance company and their medical care manager, Carelon, for inappropriate denial of medical services and essentially suborning/causing medical malpractice. Also, I believe that the actions here constitute bad faith, and unless the below mentioned "carve out" was mentioned to those purchasing the insurance, also the insurer should be investigated for deceptive marketing practices.

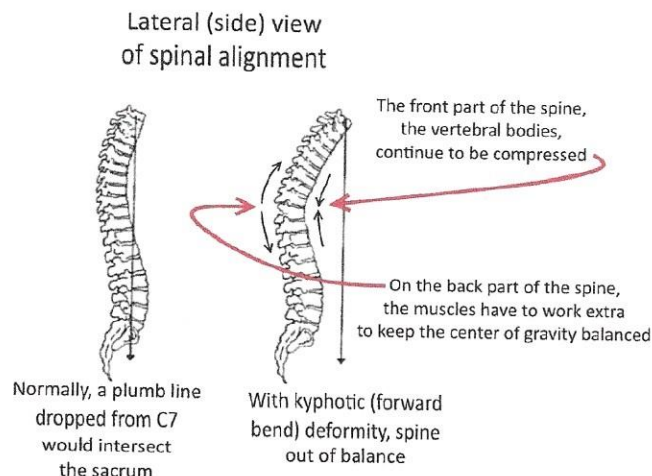
I have my thoughts detailed in the assessment section of the patient's medical records, though I find that detailing my frustrations directly in the medical record indicates that our health system has reached a new low, where profits come before quality of care. I even, as detailed, had a peer to peer conversation with a physician reviewer retired neurosurgeon, who noted he agreed with my plan, but his hands were tied by the "guidelines" of their company, and they had a carve out (condition they don't cover) for trauma for spinal compression fractures.

Though I have had no success with prior complaints to your office, I am making this complaint to go on the record of this patient's care being corrupted by the insurer's focus on profits over appropriate care, I have to also ask: if you had a broken back, and your spinal surgeon recommended a treatment, with no guarantee of success, with full understanding, and you want to proceed, how would any patient know that their insurance company would fail to cover this condition? How is their decision appropriate?

In the meantime, the patient is developing a more severe compression deformity during this time while she has been fighting (with numerous calls, time on hold, no answers) to get approval for this indicated procedure. Her forward bend of the spine (called kyphosis) is worsening, causing more of a forward bend and moving her center of gravity forward, causing risk of more pain in her future life.



The altered mechanics of a spine that has a forward bend is also illustrated below, but apparently, Carelon (the review company in charge of denying care) could not care less about the quality of life for LH.



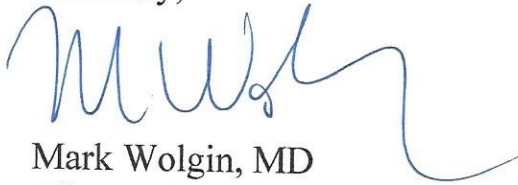
This patient had very little back pain until the tree fell on her to cause her compression fracture and her continuing back pain. What part of that history should she have anticipated to alert her to, in advance, the need to change insurance companies?

The patient is a candidate for a surgery called kyphoplasty, illustrated here, which is effective in somewhat improving the forward bend, but is appropriate and indicated for the pain relief that very often occurs after the surgery.

However, for the insurer, these issues are irrelevant, even though their physician reviewer agreed with my plan. They should have on their insurance card: "Profits over patients." Then at least the patient can make an informed decision of whether to purchase that insurance product.

Probably I need to be reminded that this is the new world order in medical care, that the insurance company is the doctor.

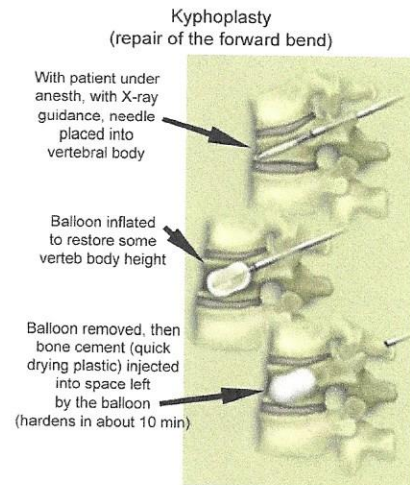
Sincerely,



Mark Wolgin, MD
Albany, GA
drwolgin.com

cc: LH

p.s. Why should I have to take time to write letters like this??



Office notes copied here:
Notes from 11/3/23:

*These notes included with
submitted complaint (but with
the whole office
note)*

This patient is referred by Dr. Michas. Patient has a history of chronic back pain which was at a level where she was considering seeking spine consultation, but she had an event on 10/22 when a pine tree fell on her and she had acute increase in back pain with work-up showing a T12 compression fracture. Patient had MRI taken of the thoracic and lumbar region which showed the T12 lesion but also that she has facet arthrosis L2-S1 and severe degeneration at L1-L2.

The patient notes that although she has pain mainly in the thoracolumbar region with some radiation of the right hip, and does not have weakness or numbness of the legs, the pain is gone from very tolerable to not tolerable.

She is having trouble with activities of daily living. She is having trouble even getting dressed and with any involvement lifting her legs. Fortunately she has no bowel or bladder control issues.

The MRI did not show retropulsion or nerve compression but she has loss of height at the T12 level.

I went over the options with the patient and her husband and we reviewed the choices which include

Do nothing

Brace

Medications

Physical therapy

Kyphoplasty.

Patient notes that her pain is difficult to tolerate and is leaning towards doing the kyphoplasty. We filled out a booking slip for T12 kyphoplasty and biopsy.

Pt is advised about nature of compression fractures and possible kyphoplasty treatment. The illustrations for vertebral compression fractures are seen at drwolgin.com, in section Spine, subsection Spine Disorders and vertebral compression fracture.

Patient can also review details of this surgery in section Spine, subsection Surgical Treatments, then Kyphoplasty, to see how we put a balloon into the

bone (while pt is under anesthesia) and then can restore some height by injecting bone cement, which goes in the with consistency of toothpaste, but hardens in about 10 minutes.

The risks of surgery were discussed with the patient to include, but not being limited to, bleeding, infection, nerve or blood vessel damage, problems with hardware if implanted, need for re-operation, or problems with anesthesia, as well as potentially more catastrophic problems up to and including death. One of the risks with kyphoplasty is that the operated level will be harder than those above and below and there is risk of next level fracturing. Pt is also advised to check with their internist for osteoporosis issues.

With regard to his other issues causing her back pain before 10/22, though she has severe degeneration of L1-L2, it might be good to start with more nonoperative pathway including trunk strengthening since her last therapy was in 2016, and also consideration of epidural or facet injections and working on weight loss.

Hopefully will get approval for the kyphoplasty and either see the patient in the preoperative holding area at the hospital or see her back for preoperative visit as soon as it can be arranged.

A copy of this note is given to the patient. They are advised that if they have any questions, they can call my assistant Lee Ann at 229-903-3455.

Addendum Note (Mark A. Wolgin MD; 11/8/2023 2:55 PM)

11/8/23: 1430pm: I had a peer to peer conversation 11/8/23 with a Dr. Stavros Maltezos, retired neurosurgeon, who explained that part of the benefits, which are managed by Caelon Medical Benefits Management "specifically excludes trauma." Though Dr. Maltezos noted that when he was practicing that kyphoplasty was an effective treatment for the pain of a traumatic fracture, his hands are tied. I noted that the word "guidelines" should be instead "laws," as this patient should not expect to be cared for since her condition is against the laws of the benefits manager, he noted I am preaching to the choir. He said I or the patient could appeal for an expedited review to the health plan.

In other words, more obstruction. Instead of facilitating an appeal process, which they might do if they cared AT ALL about the patient, the

recommendation was that I or my scheduler or the patient call for an appeal to the health plan, disregarding the fact that the patient can find not find a comfortable position and is in pain while a treatment exists. He asked if the patient has osteoporosis, and she might at some point, but she's only 41, leaving me to wonder if non-osteoporotic compression fractures are against the laws of medicine of Carelon Medical Benefits Manager?

Asked if Dr. M thought this recommendation would be appropriate if the patient were his wife or daughter, he noted he could not argue with me but his hands were tied by the "guidelines"...um, cough...Laws of medicine. And again, as with each interaction with an insurer, they only say "no." They never have an alternative treatment suggestion. Since taking care of patients is a conflict of interest with a profit-motivated insurance company, they literally and financially could not care less. It is in fact in their interest to care less.

I will let our surgery scheduler know the recommendation, and I also think that the husband and patient should complain to their benefit manager (whoever buys their insurance), along with the Insurance Commissioner in GA, and the Governor office, and their elected officials, that this insurer is offering a substandard product with arbitrary carve outs, and is operating in bad faith...behind the coverage (plausible deniability) of their benefits manager. Net result: pt suffers, and insurer saves money.

Addendum Note (LeeAnn Miller; 11/9/2023 9:18 AM)

LLM: I received a phone call at 9:05 am from "Melanie" who informed me the requested procedure has been denied, which we already knew. Again, the denial reason was per the guidelines and because the patient has not had 6 weeks of therapy, her procedure has not been approved. Not answered is how therapy going to help with a fracture? Unfortunately Melanie could not explain it and had no other suggestions on how to help get the procedure approved. Pt remains in pain and untreated.

Signed electronically by Mark A Wolgin, MD (11/3/2023 9:38 AM)

Notes from 12/6/23:

The patient returns for reevaluation after having had her request for kyphoplasty of T12 denied by the insurance company. As I noted in various addenda to the patient's previous note, I had spoken with a physician

reviewer, a neurosurgeon, who noted that trauma was carved out from indications for kyphoplasty which I think is both inappropriate and malpractice and deceptive practices that the insurance company did not disclose to the patient that she is buying an incomplete insurance product. The reviewing doctor, a neurosurgeon, noted that he agreed with my recommendation, but he was bound by the "guidelines" which apparently are the "laws" of medicine that cannot be violated.

In the meantime, the patient's been trying to get by with physical therapy which has only exacerbated her symptoms. Additionally, comparing her x-rays from 10/23 to those from today, she is gone from 9.5 degrees of kyphosis at T12 now to 13.4 degrees which shows that she is going to have probably irreversible and was potentially treatable problem the window for which we have missed out because of the insurance company denial.

To be more clear and go on the record here as the treating physician, as if anyone actually cared, what is happening here is malpractice that is being caused by the insurance company. I am sure the insurance company would say that I as the physician can do what ever I want but except for the small detail that the insurer is just not going to pay for it.

I have to remind those involved that the *de facto* control of medical care in this country is by insurance companies, because these days medical care is so expensive that normal working people cannot afford what we do in medicine. In other words, I doubt there is any insurance company executive or attorney or judge that would ever accept this standard of care of having the recommended surgery being denied by insurance company who will never meet or see or care for the patient, with the denial being inappropriate.

We are putting in a request for another MRI which I would not be surprised that the insurance company would deny (because they need the money apparently) so that I can see if the patient still has an acute fracture of T12 that would still make her a candidate for kyphoplasty.

The patient has another visit planned for this morning with physical therapy but if the pain continues to get worse, I recommend she stop the therapy because it's not helping her.

Patient also has severe degeneration of L1 and L2 and she could be a candidate for a spinal fusion from T11-L2 but not only would I not want that

surgery if I were the patient because it is too aggressive, but it would be way more expensive than the proposed kyphoplasty anyway.

Also since the people reading this will likely not be spine surgeons, there is a question of sagittal balance. In English, this concept refers to the fact of a spine developing a deformity with a forward bend that puts the center gravity in front of the hips and irreversibly and forever will cause the posterior (backside) muscles in the spine have to work overtime and fatigue more easily because the spine is no longer in balance when viewed from the side. In other words, it would be like if someone who is 5'10" had to walk in the room that was 5'8" for the rest of their life. Their back muscles would get tired and the chance to correct this problem is now, with treatment options again being prevented by the insurance company.

Hopefully I cannot be clearer, but this situation is completely unacceptable but is also apparently the new world order because it is all legal.

A copy of this note is given to the patient. They are advised that if they have any questions, they can call my assistant Lee Ann at 229-903-3455.