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Dear Officers;

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Executive Vice President and Chief Administrative Officer
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Zeff Ross, FACHE
Executive Vice President MHS and Chief Executive Officer
Memorial Regional Hospital

My name is Pablo Andres Soto MRN . I am a Pembroke Pines resident and Memorial Health System client. My two younger children were born at Memorial. One at West and one at Miramar. In the 22 years we have lived here we have utilized the services of Memorial with no complaints. I have had 2 uneventful surgeries at Memorial. My wife the two births. All three of my kids utilize Memorial services. We have never had any issues until now.

Pre-op

I was diagnosed with an adrenal tumor (Pheochromocytoma) by my doctor after several test were completed in response to ultrasound and MRI indicating right adrenal mass. These additional tests included an MIBG Scan which had to be done twice. It was not administered correctly the first time at Memorial Regional Hospital. In the first test the Lugol's solution prescribed of 1.5 drops per cup of water was inaccurate. This caused my whole body to absorb the radiotracer contrast but especially my thyroids which the solution is supposed to protect. The second test was a VMA 24 hr. urine which was completed at Quest. It was determined that an adrenalectomy would be required to remove the Pheo. MRI had indicated this was a highly vascular tumor sitting within close proximity to the Vena Cava. This was noted by my endocrinologist who referred me to Dr. Pidhorecky for surgery. He was found to have been removed and no longer performing surgeries at Memorial. I then found that Memorial has a Center for Endocrine Surgery who specializes in endocrine surgery and figured they would be the best choice. The center had two surgeons for this type of surgery Dr. Bimston and Dr. Edwards. Dr. Edwards had been trained in a new technique known as LAPAROSCOPIC RETROPERITONEAL ADRENALECTOMY. Dr. Edwards stated she had performed over 50 adrenalectomies due to Pheos with several being utilizing this approach. Additional surgical experience in other endocrine surgeries was also noted primarily of the throat. This however would be the first retro approach she completed at Memorial Regional Hospital. It was new in the sense of the approach from the rear/side rather than transabdominal (traditional way). It was agreed that Dr. Edwards would be lead surgeon with Dr. Bimston assisting. I began my preop visits in anticipation of surgery. Throughout my visits I was weighed every time with blood pressure measurements to see how I was responding to the preop medication to lower my blood pressure that had been provided. It was noted in my visits that my BMI was higher than the 30% what was recommended for the retro approach surgery. It was determined that there may be a possibility of having to change the procedure due to my BMI once an initial assessment was made. It was agreed that it was ok to flip me to my back and do it in the traditional transabdominal approach if too much fat was found through the rear approach. This would be necessary since it is known that patients with a high BMI can have too much fat which could obstruct the field of view for the surgery. Additionally, it was already known based on several MRIs that the location close to the Vena Cava, the size of the tumor and the high vascularization noted on the MRI that the procedure is more difficult than a typical laparoscopic one making the rear approach even less likely. We spoke about this and it was agreed that should any complications or difficulties arise I was ok with going transabdominal, retro or as she stated open me up like a book should visibility be that bad. This would be necessary given that prolonged handling the Pheo could lead to excretion of hormones which can cause severe complications. We were go for the surgery now scheduled for 9/16/2019. Everyone was on the same page.

Day Of Surgery

I showed up as scheduled at Memorial Regional Hospital. As instructed, I took my two showers one the night before and one that morning with the provided surgical soap. It was noted that the authorization for treatment stated left adrenalectomy and not the right. It was then corrected, and I signed it. It now noted right adrenalectomy and had both procedures listed as it was not known yet which way it would go until the camera went in. Neither of my surgeons were there which is unusual and extremely bad in my opinion. Typically, the surgeons meet with the patient to reassure both them and their family and to go over the procedure one last time. Both of my surgeons showed up late. I did not see any of them prior to surgery. My family saw Dr. Edwards when she reached the hospital. I saw my anesthesiologist who did a great job explaining what was going to happen and what to expect. Laparoscopic surgery has poles that are placed in strategic locations to allow the surgeon to complete the procedure. Their location is typically determined based on the use of an ultrasound to locate the appropriate placement however this was not confirmed if it was actually done or not. Surgical notes state finger measurements were utilized calculating distance from ribs. Per surgical notes entry was made from the rear and dissection was started. In the process of dissection vessels and arteries that the surgeons believed to be going to the tumor were ligated by mistake. The ureter was also ligated. When the kidney was immobilized a change in color was noted leading them to believe the kidney was starved of blood supply. Laparoscopic instruments were removed. I was flipped belly up for emergency laparotomy to stop bleeding and evaluate what happened. The tumor and kidney were still inside. The ligation of the kidney, additional extended handling of tumor and blood loss contributed or caused my potassium levels to skyrocket. It was then confirmed that the kidney had in fact been disconnected and no longer receiving adequate blood supply. The Memorial Kidney transplant team was then called to provided assistance. The team was going over viable options to attempt to save the kidney which had been removed. In the meantime, I was crashing due to the high potassium levels and very unstable. At this time, the kidney was second as I was dying and stabilizing me became a priority. Blood was being provided and efforts were being made to save the kidney for future auto transplantation. The kidney was removed and put on ice on the back table as I was still suffering from high potassium. I was placed in SICU until stable enough to go back to the OR while kidney team evaluated and prepared my kidney for possible auto transplantation. They were able to save the kidney and surgery would take place about 8 hrs. after kidney had been removed.

The Transplant

Approximately 8 hrs. later the transplant team began the transplant surgery which lasted several hours and completed the transplant. It required an incision from slightly below the Xiphoid process to just above the pelvis. A graft had to be obtained from my left leg to build an artery for the kidney. A second incision was made at time of transplantation of to the right from the main incision. The transplant was successfully completed thanks to the awesome work by Dr. Arenas, Dr. T, Dr. Shaw, Dr. Pedraza and all the fabulous staff in the transplant center who I owe my life to and will be forever thankful.

Recovery

I woke up at 8:22 AM 9/17/2019 by my recollection. They stated I had woken up earlier but that I do not remember any of that. I do remember thinking how fast and great my surgeons were that got the procedure knocked out in a couple of hours and that I would be soon going home. I was anxious because the tumor had been affecting me and I was excited to get back to a normal life. As I went to move a little on the bed, I felt something strange in my front abdomen and knew something was wrong. I said to the nurse what I was thinking about how fast my doctors. She then stated it was Tuesday (the next day). I had been out since the day before. I was then told kind of what happened. I looked down and saw this.



It was clear that “normal” was not going to happen. Ever. The transplant team visited me every morning until I got well enough to go home as getting sick is always a concern. I was then released on Saturday September 21, 2019. A follow up was required with urologist to remove stent which was also extremely painful due to urethral injury caused by inadequate or improper catheter removal.

Results

I survived but will be a kidney patient for life with all the limitations and concerns that this brings for both me and my family. Risk of dehydration is always present with the possibilities always present of having complications with the transplant. These risks are even higher since I was a diabetic already. Recovery time from went from the couple of days for the laparoscopic procedure to 3 months for what was actually done. It has deeply affected my family in many ways including physically, emotionally and economically. I still have nightmares about a surgery I never saw or witnessed. I have to urinate every couple of hours which given I work out on the street makes my life far more difficult than it used to be. I must carry my water supply everywhere I go so I don't dehydrate as the transplant kidney is always producing urine. I have had to deal with a lot of pain while in recovery as well as limited mobility. Kidney is in the lower abdomen and it risk of injury so no contact sports or dangerous activities. No heavy lifting. Kidney could have complications at any time and has greater risk since patient cannot feel it. For example, it could have stones or infection, but one would not know until the stones come out or other external symptoms arise since kidney has no feeling.

Conclusion

It is my belief and that of medical and legal professionals that given the multiple prior MRIs indicating that the tumor was highly vascular and large combined with its proximity to the Vena Cava that better surgical mapping and planning utilizing available imagery technology should have been completed in anticipation and or during the procedure. Additionally, it had already been agreed that as a last resort if there was poor visibility due to my BMI I would be flipped and opened up "like a book" if it was difficult laparoscopically. This was not done as agreed. Even during surgery such technologies as mobile ultrasound could and should have been utilized to determine location of adrenal blood supply vs kidney blood supply if it was in doubt. I have contacted several law offices. I have three that have reviewed my case and have concluded that this is medical malpractice. There are several factors that contribute to establishing a timeline of negligence and lack of professional performance. Such factors include, Inconsistency in authorization for treatment which initially stated left when it was supposed to be right, both surgeons showed up late for surgery, surgical records state both left and right tumors which is incorrect and which could have led to the wrong adrenal being removed or both being removed. Surgical record is inaccurate due to inconsistencies. This makes Memorial Regional Hospital liable for damages caused by the negligent manner in which the procedure was carried out resulting in an accidental nephrectomy and auto transplantation.

- The surgeons owed me a duty of care
- The surgeons fell below and breached that standard of care
- I suffered injury and damages recognized by Florida Law
- There is a direct connection between my injury and the surgeons' breach

As previously noted, I have three law firms which I have consulted, and which have reviewed my case. All have found there to be medical malpractice in my case. The law office of Kelley Uustal located at 500 N. Federal Highway, Suite 200, Fort Lauderdale, FL 33301 investigated the case and sent risk management a letter to request the surgeons information with regards to insurance and employment status to see if this would be a case of possible sovereign immunity which would limit recovery of damages. I was told it is \$200,000 for me and \$100,000 for my spouse. The office contacted us and stated that it would be such a case as per Florida Law. They stated that given the high cost of going thru with the case and limited recovery they could not in good conscience accept the case as it would be unethical to accept a case in which the client would end up with an extremely small fraction of the judgement or settlement due to the high cost and limited recovery. I was told that I should contact Memorial and attempt to resolve this matter with Memorial directly which is the reason for this letter. If I should fail however they stated, they would take the case.

I have obtained a copy of the surgical file which was submitted to several law offices for review and have found that based on the opinions of several legal and medical professionals including my PCP, endocrinologist and medical attorney who was a doctor at Memorial now at Kelley Uustal and have concluded that the actions of my surgeons meet the criteria for Medical Malpractice. I seek to settle this case directly with Memorial at the advice of counsel given the cost and limited recovery for medical malpractice lawsuits in Florida due to Sovereign Immunity. As upset and incapacitated as I was when this happened, I was still making plans to go out and tell the world of my situation and what happened. The world needed to know what they do at Memorial. When I read the surgical record, I got even more upset. I got to really find out what happened and how close I was to dying. I was told I crashed several times. I had been wondering why everyone kept saying I had been thru so much and that's why I was feeling the way I was feeling. I did not know until I read the record though that I basically died. This made me reflect on my life in general, my family and my future. I had mixed feelings, but anger reigned supreme. It was then followed by appreciation for the doctors who saved my life and my kidney. As anger slowly became replaced by acceptance of my situation I began to come to terms with my situation and began evaluating it.

I had a transplanted kidney.

I could not work for at least three months as per Dr.

I have tons of medical bills from the additional surgery including a massive anesthesia bill since I was under for so long. Additional medical bills for my son that was attended at Memorial which are now in collections since I do not have money to pay as I have been without work.

Lifetime follow up medical expenses for transplant.

Lifestyle limitations and modifications due to transplant.

Problems sleeping likely due to PTSD caused by the surgery as suggested by transplant doctors.

Pain. Back pain, leg pain and abdominal pain. I was set though on not utilizing opioids due to addiction risks and bowel issues.

Depression

Headaches

I am offering a settlement which I think would be fair for both parties. I have accepted that accidents happen and are willing to move on. I think that Memorial Regional Hospital whose employees Dr. Edwards and Dr. Bimston are responsible for the accidental nephrectomy is liable and should compensate me and my spouse as provided by law for the following.

Pain and Suffering

Current and Future medical bills for current procedures and required lifetime follow ups directly resulting from the negligence of the surgeons' actions

Economic damages resulting from inability to work and continued limited ability to work once recovered due to limitations that a transplant cause.

I feel this is reasonable given that I think everyone can agree that while not intentional it was a result of negligence and not meeting an acceptable standard of care. I think a settlement would be beneficial to both parties as litigation on both sides has a cost and in the end the hospital has a responsibility to do what is right and fair when treatment goes wrong for their patients. I respectfully request that this offer be considered in order to settle this matter. Given the lifelong impacts associated with this injury we are prepared to file suit for the maximum allowable of \$300,000 for my spouse and me. In the interest of resolving this matter without going to court, incurring legal expenses and in the interest of the urgent economical needs of my family we would like to offer to settle for \$200,000. I am behind on all my bills as I am just getting back to work on a more consistent schedule. I hope you find this offer reasonable so we can all move on and I can resolve my urgent economic needs and be prepared for the future costs and difficulties that this condition may bring.

I would like to add that I am extremely disappointed in how this was handled by Memorial at the administrative level. I am sure everyone there found out about this as soon as it happened given the gravity of the situation. If that was not the case, then changes need to be made. It should have been known however when my social worker Ms. McGowan tried to find me assistance because she knew I could not pay my water, light or mortgage. A financial assistance form was also completed and never received a response other than I had to go to an office. This makes no sense since transplant patients are supposed to avoid public places initially. Finally, if not then I know everyone found out when the letter requesting insurance information sent by Kelley Uustal was received. Not one person from risk management or upper management reached out to provide assistance, ask what happened or lastly at least ask how I was feeling. This actually also includes the doctors that caused this. I asked both surgeons what they thought went wrong and what they would do different. These are the answers I got.

Dr. Edwards stated “nothing”. This is deeply troubling given the result. I think it is obvious something went terribly wrong. She followed up and I am paraphrasing now saying everything was going well but there was a lot of fat making it difficult to see. I told her we had spoken about that so why didn’t she flip me as we had talked about. She stated she thought she could still get it done.

Dr. Bimston said he thought it was a situation cognitive bias. He said he had just read an article on it.

I think both answers are troublesome. A good doctor should be able to and must evaluate every surgery. When it goes wrong even more so. The doctor must also offer the patient an honest answer and explanation as to what happened. Even if it is ugly. Stating “ I would have done nothing different” when my kidney is by my pelvis rather than in my back means things should have definitely been done differently and not being able to recognize that is troublesome because it means it could happen again.

At no time do I believe that this Sovereign Immunity was intended for healthcare providers to escape their responsibility when mistakes occur which have life changing consequences. I am sure it was designed to protect providers from unreasonably large jury judgements for damages which are excessively reported. At least that is the intent it appears to be written with and based on my conversations with State Representatives and other government officials. Furthermore, they stated that in extreme cases the legislature can also grant exemptions This is based on the thinking that hospitals are most trustworthy than medical malpractice attorneys. In the end I think what prevails and what everyone can agree with is that one should do what is right. In this case I think providing compensation to those hurt by the surgeons’ negligent actions is the right thing. I have not gone public with this in the hopes it may make it easier to resolve. I don’t wish to hurt Memorial with negative publicity because I

feel at this point it would be unfair without giving the hospital an opportunity to try and make amends. I urge you to please get this matter resolved ASAP. I am three months late on my mortgage and behind on FPL and water bills. I am also behind on other bills. There is differed maintenance on my home due to lack of funds and have medical bills going to collections including additional Memorial bills for family members that were outstanding that I could still not pay since I have been with limited ability to work now at Sage Law Offices for collections. I thank you for your time and hope that this can be resolved quickly and fairly. Thank you

Respectfully,

Pablo Andres Soto







