IN THE COURT OF APPEALS OF IOWA

NO. 20-1124

ELIZABETH DOWNING and MARCELLA BERRY
as Co-Administratrix of the ESTATE OF LINDA BERRY,

Plaintiffs/Appellants,

VS.

PAUL GROSSMAN, M.D., and CATHOLIC HEALTH INITIATIVES IOWA, CORP. d/b/a MERCY MEDICAL CENTER, MERCY MEDICAL CENTER-WEST LAKES, and MERCY SURGICAL AFFILIATES,

Defendants/Appellees

APPEAL FROM THE IOWA DISTRICT COURT
IN AND FOR POLK COUNTY, IOWA
Case No. LACL140875
THE HONORABLE DAVID PORTER

# APPELLANTS' RESISTANCE TO APPLICATION FOR FURTHER REVIEW

## Court Of Appeals Decision Dated October 6, 2021

STEVE HAMILTON
MOLLY M. HAMILTON
Hamilton Law Firm, P.C.
12345 University Avenue, Suite 309
Clive, Iowa 50325
(515) 309-3536
(515) 309-3537 (FAX)
steve@hamiltonlawfirmpc.com
molly@hamiltonlawfirmpc.com
ATTORNEYS FOR APPELLANTS

## TABLE OF CONTENTS

## STATEMENT RESISTING APPLICATION FOR FURTHER REVIEW

Appellee-Defendants contend this is a medical malpractice case wherein the negligent acts occurred over six years prior to suit and are therefore barred by the Iowa statue of repose for medical negligence cases. ICA 614.(1) 9. Plaintiffs contend that Defendant Dr. Grossman a/k/a Grossmann was guilty of fraudulent concealment and the statute does not apply. The trial court erroneously granted summary judgment. The Court of Appeals correctly reversed, finding there is evidence of fraudulent concealment.

## BRIEF

### I. PROCEDURAL AND FACTUAL BACKGROUND

This is a case of sloppy below standard of care medical care with an accompanying coverup. Defendants' Brief leaves a great deal of the factual background out in order to come to their conclusion.

Defendants' version of the facts starts on October 1, 2009. However, important events occurred much before and after that date and those additional events will be discussed in this Brief.

Defendant Catholic Health Initiatives-Iowa Corp d/b/a Mercy provides a range of health services. As stated in its answer to the Third Amended Petition and Jury Demand, para. 2, Defendants

admitted that “Catholic Health Initiatives-Iowa Corp, does business as Mercy Medical Center-Des Moines, Mercy Medical Center-West Lakes & Mercy Surgical Affiliates at certain points in time”. (App. 52).

Decedent Linda Berry’s first relevant care event took place at Mercy Hospital, Des Moines, Iowa, in July 2004. At the time of that admission on July 6, 2004, Linda had a computerized tomographic (CT) scan rendered by Mercy Medical Center Department of Medical Imaging Service to her pelvis but which serendipitously showed a 1.0 x 1.5 cm nodular mass on her right kidney. The contemporary radiologist report directed further investigation by ultrasound. However, this was never conveyed to Linda and never performed.

On a second occasion, December 9, 2006, Linda was admitted to Mercy Hospital again for a CT scan of her abdominal area. This again demonstrated a right renal cyst. Again, Linda was never advised about this cyst.

Linda presented on October 1, 2009, to Mercy Hospital. She came under the care of Dr. Paul Grossman, a/k/a Grossmann. Her complaint at the time was similar to the prior two encounters, consisting of severe stomach pain.

Dr. Grossmann ordered a CT scan. (App. 225). Initially that scan was read as benign and Linda Berry was sent home to Adel in the company of her daughter, Elizabeth Downing. She was told

her diagnosis was constipation and she was given a laxative. Dr. Grossmann signed off on the discharge instruction identifying constipation causing lower abdominal pain. (App. 106, attached). This was done by written document.

Elizabeth Downing who had accompanied her mother stated that they were told that everything was ok on the scan and Linda had “mild constipation.” In fact, “Constipation causing lower abdominal pain” was the diagnosis. (App. 106, attached). (See also dictation note). (App. 103, attached).

After receiving these discharge instructions, Elizabeth left Mercy Hospital with Linda. However, when they were at the Waukee exit off the interstate, Elizabeth received a call from Mercy resident, Dr. Matthew Severidt, stating, “You need to bring your mom back. Not everything was ok on the CT scan.” (App. 292).

This was done because the radiologist had done a final read on the CT scan and identified mild sigmoid colitis and an incidental right kidney cyst which was, “worrisome for cystic renal cell neoplasm” according to the reading radiologist. (App. 224, attached).

Linda and Elizabeth did return knowing only that the CT was unusual. Since they had only discussed the constipation up to that point, they would logically understand there was something wrong having to do with Linda’s stomach or constipation issue.

Elizabeth stated when she returned to the hospital with Linda, Dr. Severidt only said, “the CT scan showed colitis and she needed a prescription called Levaquin.”

Dr. Severidt’s statements to patient Linda Berry were at the direction of Dr. Grossmann.

> “Q. Do you recall, did you speak to Ms. Berry first or did you speak to Dr. Grossmann about the plan to follow up as an outpatient?
> A. Dr. Grossmann is in charge -- was in charge so I would have called him with the final results and then taken instruction or direction from him.” (App. 357).

Resident Dr. Matthew Severidt then gave Linda and Elizabeth a second discharge instruction. This instruction identified Linda’s diagnosis as “mild sigmoid colitis” (App. 162, attached) as opposed to the earlier diagnosis of “constipation causing lower abdominal pain”. (App. 106, attached). It did not refer to the kidney mass or any of the prior scans in prior years in any way. (App. 162, attached).

Dr. James Lopes identifies this failure of proper communication as a standard of care violation. (App. 189, attached).

Dr. Grossmann testified that calling a patient back to the hospital was very unusual. He had only seen it done twice in 23 years of practice. (App. 215).

The reread of the CT scan (App. 224, attached) states, “large exophytic cystic mass, lower pole right kidney increased in

size compared to the previous exams of 12/6/2006 and 7/9/04. The increase in size is worrisome for cystic cell neoplasm. Consider further evaluation with contrast enhanced MRI." (App. 224, attached) (A neoplasm is a potential cancer).

Elizabeth Downing, adult daughter of Linda Berry, was with Dr. Severidt and Linda Berry at all times on this return trip. Elizabeth stated that the only thing Dr. Severidt told them was "You need to follow up with Dr. Grossmann for the colitis that showed up on the CT scan." (App. 295). Clearly, both Dr. Grossmann and Dr. Severidt were in violation of their fiduciary duty at that time because they knew about the two previous CT scans in 2004 and 2006, but never asked Linda or Elizabeth if they were aware of them when circumstances clearly indicated she was not aware of same, and it would be important that she know that at the time.

Elizabeth and her mother, Linda, left Mercy the second time. It is immediately suspicious that no one, Severidt nor Grossmann, asked Linda or otherwise inquired if she knew about the two prior scans in 2004 and 2006 that showed a kidney mass, and which required further evaluation as directed in 2004 by the radiologist who reviewed the CT at that time.

It is well established that a physician owes a patient a fiduciary duty. The above incident is an obvious intentional violation of same. See *Pearson v. Koppes,* 384 N.W.2d. 381 (Iowa, 1986). The fiduciary duty "requires health care providers to

apprise patients of material physical conditions throughout the course of their health care." *Daniels v. Gamma West Brachytherapy LLC.,* 221 P.3d. 256 @ 270. (Utah, 2009).

Dr. Grossmann offers up a statement that his standard of practice was that if a person came to him with a problem not in his wheelhouse of surgery, he would refer them back to their personal physician for direction on that subject.

> "Q. Is ordering an MRI of the kidney outside the scope of your practice?
> A. Yes. The reason is because I'm a—I'm a specialty. I'm not a primary care doctor. And the primary care doctor may or may not agree with that. They may decide that they want to send them, say, to a urologist. And the urologist may say that's an unnecessary test because I think that it needs to have this done. And there's a whole host of different ways it can be done. And since I am not an expert in that, I wouldn't want to try to make that decision. And I wouldn't want to get in the midst of it because whatever you decide to do, then there may be further testing.
>
> So, since I'm not in a position to be referring on to the radiologist –or the urologist, I would send it back to the primary care doctor." (App. 211, 212).

Either Marcella or Elizabeth accompanied Linda at all times when she was with Dr. Severidt or Dr. Grossmann on October 1, 2009 and neither physician referred Linda back to her family physician despite Dr. Grossmann's clear acknowledgment that was his duty under those medical circumstances. (App. 290-297).

Dr. James Lopes, a physician retained by Plaintiffs, identifies multiple standard of care violations. He found the

initial failure of communication regarding the 2004 kidney lesion immediately after the reading as a violation of standard of care. (App. 189, attached). He identified the lack of clear written communication in December 2006, by Dr. Whitmer, a partner of Dr. Grossmann (App. 210, Supplemental App. 6) as a standard of care violation. Dr. Lopes goes on to explain in multiple admissions, Linda Berry listed her physical complaints but never listed a kidney issue or a kidney cyst. He recites that again, on October 4, 2009, when Linda was admitted to Mercy Hospital, "If a lay person were recently told of a growing kidney mass 72 hours prior, they would at least mention that she had something "wrong" with her kidney". (App. 189, attached).

Dr. Lopes goes on to say that "The lack of recall of her kidney issues is seen once again on her intake at her 10/6/09 office visit. (App. 171) On that outpatient office intake form, she is able to fill out a complete medical history including allergies, as well as recite her complex medical history but does not mention the renal mass, something new that she would have been told about that same week." (App. 189, attached).

Regarding Linda's stomach issue, two different sets of discharge instructions were given on October 1, 2009. The first came before the reread of the CT scan and diagnosed constipation. (App. 106, attached). The second diagnosed sigmoid colitis. (App. 162, attached). The two discharge instructions were completed by

Dr. Severidt. (App. 359). After the second read of the CT on October 1, 2009, the sigmoid colitis was the diagnosis. However, there was no mention of the concerning kidney mass nor any statement of how to deal with it. Resident Dr. Matthew Severidt explains that. He first has a curious explanation why Linda was provided written discharge instructions that did not cite the kidney cyst.

> "Q. Why would the kidney issue not be provided in written discharge instructions?
> A. We were consulted as a general surgery service to deal with general surgery issues. Colitis falls under that umbrella. That is what Dr. Grossmann was asked to take care of, and that's what was provided in her written instructions.
> Q. So this kidney mass is not a general surgery issue?
> A. It's a urologic issue." (App. 365).

In an age old effort to avoid responsibility for Linda's care, Dr. Severidt blamed some other unknown. He never identified who "asked" to take care of Linda since Severidt and Grossmann were the only physicians she saw on October 1, 2009.

Resident Dr. Severidt confirms he discussed these issues with Dr. Grossmann. (App. 366, 367).

Resident Dr. Severidt also had some very intriguing responses to why the second set of discharge instructions, (App. 162, attached) given after the kidney mass was discovered during the CT reread did not address the kidney mass.

> "Q. Which would -- I guess I'm still going back to the discharge instructions. If she needed further testing or follow-up, why would that not be

provided on the discharge instructions in Plaintiffs' Ex. 5?

(Objection of attorney omitted).

A. I am an agent for Dr. Grossmann, so I am writing instructions that come from him." (App. 372, 373)

Linda saw Dr. Grossmann at his office on October 6, 2009. Dr. Lopes astutely points out that when Linda wrote her reason for seeing Dr. Grossmann, she wrote in regard to the referring source "Mercy Hospital". She correctly identified her PCP, Dr. Nikoueiha. Her stated reason for seeing Dr. Grossmann on that date was identified by her as "colitis". (App. 171, attached). She listed significant medications and health issues as well, but no kidney issue.

Dr. Grossmann confirmed that he reviews these documents, typically before he goes in the room or while in the room. Dr. Lopes points out that a physician would have determined that this patient was likely unaware of the kidney cyst condition because despite her relatively thorough identification of medical issues, does not reference a kidney. (App. 189, attached).

Yet inexplicably, being aware that there was no adequate communication to Linda of the kidney cyst in July 2004, despite the radiologist warning. Linda was not adequately apprised of the kidney cyst.

Linda was not made aware of a kidney issue at the December 2006, medical visit with Dr. Grossmann's partner, Dr. Whitmer.

When Linda saw Dr. Grossmann on October 1, 2009, at Mercy Hospital, the radiology report would make Dr. Grossmann aware that two prior CT investigations raised alarm, but this was not communicated in writing to Linda. On October 1, 2009, he directed Dr. Severidt what to write in the discharge instructions and he did not include the kidney cyst that had already been overlooked at least 2 or 3 times.

When resident Dr. Rachel Fleenor saw Linda at Mercy Hospital on October 3, 2009, she did not exercise her fiduciary duty and inform Linda about her kidney cyst despite her knowledge of same. (App. 107)

When Linda went to Dr. Grossmann's office on October 6, 2009, her intake document clearly demonstrated she was not aware of the kidney cyst and all of the prior failings did not change that. (App. 171, attached).

So what did he do? He once again relied on what he says was an oral direction writing a comparatively lengthy comprehensive letter about a belly ache. He wrote nothing to Linda's PCP about the kidney cyst. He also put together a lengthy office dictation, not ever identifying the kidney issue. (App. 109, attached).

In April 2018, Linda fell and fractured her shoulder. She was referred to University of Iowa Hospitals and Clinics for

care. She advised them she was not aware of a “mass on my kidney”. (App. 192, attached).

## II. THE COURT OF APPEALS WAS CORRECT IN REVERSING THE DISTRICT COURT’S SUMMARY JUDGMENT RULING AND THE SUPREME COURT SHOULD DENY FURTHER REVIEW OF SAME.

Summary Judgment by the Trial Court was ill advised in this matter and the Court of Appeals properly so found. Defendants’ theory is that Dr. Grossmann performed within standard of care at all times he served Linda Berry and Plaintiffs’ have created a conspiracy theory out of whole cloth.

Plaintiffs’ theory is that Dr. Grossmann is guilty of so much more than a few “I forgots,” “failure to disclose,” which arguably fall below the standard of care. A close look at all he did and said clearly allows a jury to draw conclusions from the evidence that Dr. Grossmann was guilty of concealment of the kidney cyst.

In ruling on Motions for Summary Judgment, all reasonable inferences are construed against the movant. This is true at the trial level as well as at the appeal level. See *Banwart v. 50th St. Sports LLC,* 910 N.W.2d 540 (Iowa, 2019), allowing an inference of knowing impairment by licensed alcohol supplier, when the AIP consumed alcohol in that establishment and had an accident a short distance and time from same and was found to be beyond the blood alcohol limit permissible for driving.

See also *Smith v. Shagnasty's*, 688 N.W.2d 67 (Iowa, 2004) identifying a legitimate inference that a liquor licensee knowingly sold and served alcohol to an alleged AIP, when that person was holding a beer and the establishment was in the business of selling beer. The Court also upheld an inference of intoxication from beverages served in an establishment when a person is visibly intoxicated shortly after being served an alcohol beverage. Finally, the Court found an inference of scienter about intoxication was reasonable where the bar employees had agreed to restrain an AIP who had struck a person with a beer bottle and the tavern employees allowed that person to abscond after they had promised to restrain that person but released her before law enforcement personnel arrived.

In this case, Defendant claims the careless act of October 1, 2009, is beyond the time prescribed by the Statute of Repose and the case should be dismissed. ICA 614.(1)9.

However, the Courts have recognized an exception to application of the statue of repose where there has been fraudulent concealment. The question is whether Plaintiffs Berry have presented evidence of fraudulent concealment.

*Estate of Anderson ex. Rel. Herren v. Iowa* Dermatology, 819 N.W.2d 408 (Iowa 2012) identified the doctrine of fraudulent concealment that "allows a plaintiff to pursue a claim that would

be otherwise time barred under the statute of repose." 819 @ 415. That requires plaintiff to prove:

> *"(1) The defendant has made a false representation or has concealed material facts; (2) the plaintiff lacks knowledge of the true facts; (3) the defendant intended the plaintiff to act upon such representations; and (4) the plaintiff did in fact rely upon such representations to his prejudice." 819 N.W.2d 415.*

The affirmative conduct of concealment must be independent of and subsequent to the liability-producing conduct citing *Koppes v. Pearson, 3*84 N.W.2d 381 (Iowa, 1986). This doctrine has most recently been refined by *Skadburg v. Gately,* 911 N.W.2d 786 (Iowa, 2018).

*Skadburg* identifies the same necessary elements but emphasizes the existence of fiduciary duty. The Court held an attorney could not simply remain silent after giving negligent advice about disposal of estate assets when she sent a series of communications blaming herself for the expenditure of such funds. 911 N.W.2d @ 799.

A number of cases have held that there is a fiduciary duty owed by the physician to his or her patient. *Grosjean v. Spencer,* 258 Iowa 685, 140 N.W.2d 139 (1966). A "physician owes a patient a fiduciary duty. Mutual confidence is essential to proper patient care." cited in *Baines v. Blenderman,* 223 N.W.2d 199 @ 202. (1974).

In this case there are a number of very suspicious occurrences susceptible to adverse inferences drawn against Mercy and Dr. Grossmann.

First of all, neither Mercy nor Surgical Affiliates, Dr. Grossmann's practice group, adequately advised Linda Berry about the 2004 or the 2006 CT results at the time they occurred. Dr. James Lopes identifies this as below standard of care.

Secondly, silence here was deafening. Not a single medical person in the series of events between October 1, 2009 and October 6, 2009, ever asked Linda if she had known and had addressed the 2004 or 2006 CT finding regarding her kidney. She had seen Dr. Severidt at Mercy on October 1, 2009. She also saw Dr. Grossmann at that time. Neither wrote a word about the 2004 or 2006 CT scans and the radiologist recommendations. Dr. Grossmann also acknowledged his practice partner, Dr. Whitmer, had been involved with Linda's care in 2006.

Dr. Grossmann testified extensively to the effect that if a condition arose outside his practice group, which he stated Linda's kidney was, he would refer back to her PCP because he cannot even order an MRI for a kidney. (This, of course, has difficulty passing the laugh test since the very evening he had ordered CT scans for abdominal issues). He failed to do that.

Dr. Grossmann's next step into the twilight zone is the fact that no adequate written discharge was provided on October 1, 2009.

A fleeting thought about how the 2004 and 2006 failure of communications fell through the cracks because there was no written record of communication, a violation of standard of care per Dr. James Lopes, should have prompted the most iron clad written discharge document to at least cover the back sides of all involved.

So what did Dr. Grossmann do? He went down the same road relying on an alleged oral communication to the patient concerning a potential cancerous condition while taking the time to tell Dr. Severidt what to write out in a written discharge instruction of what to do about a belly ache. The fact of the matter is, no one medical person ever wrote or spoke a word about why the 2004 and 2006 CT scans were not acted upon. Dr. Severidt and Dr. Grossmann did not tell Linda on October 1, 2009, or at any other time. Neither did resident Dr. Rachel Fleenor or her supervising physician from Dr. Grossmann's group, to wit, Dr. Roe. (App. 342-343). The jury would be justified to draw the inference that there was a concerted effort to avoid informing Linda of a full picture of her past and present treatment regarding her cystic kidney mass, an inference justified under *Smith v. Shagnasty's,* or *Banwart v. 50th Street Sports LLC*. Supra.

The last straw in this misuse of medical care is the October 6, 2009, office visit Elizabeth attended with her mother. She confirms that the kidney cyst was not discussed or reviewed in any way at that visit. (App. 295-297). Elizabeth testified that Linda filled out paperwork which would be the item identifying as her reason for seeing the doctor and current symptoms as “colitis”. (App. 171, attached).

Notwithstanding same, Dr. Grossmann wrote his office dictation not even mentioning the kidney mass. (App. 172) He wrote a lengthy letter identifying her treatment course from October 1, 2009, to October 6, 2009. The detail in his letter about the stomach issue and nothing about the kidney CT is absolutely baffling. (App. 109). He spoke about the CT scan administered on October 1, 2009 yet never mentioned the call to return and the kidney cyst. He remarked about his examination on October 6, 2009. He mentions the repeat to Mercy on October 4, 2009. However, there is nothing about the CT scans. (App. 182). Again, he inexplicably failed to mention the kidney condition or any prior events concerning same. Elizabeth and her mother, Linda, were present at the October 6, 2009, medical appointment and Dr. Grossmann did not ever mention the kidney cyst or referral for treatment of it with anyone. Dr. Grossmann’s visit dictation for that day does not mention it. Their testimony is therefore completely consistent with his record.

At a later date, Dr. Nikoueiha read the letter in the presence of Linda Berry and Elizabeth Downing, which assured Linda about her condition. (App. 305). She of course had no other means of reasonably informing herself about her kidney condition. She and her family physician reasonably relied on the October 6, 2009, letter.

If one applies the *Skadburg* formula, the following is the result: (1) Is there an act of negligence or liability creating event? There is. This is the October 1, 2009, encounter. Crediting the testimony of Elizabeth Downing, neither she nor Linda were advised of the previous scans and what danger they posed to Linda. Dr. Grossmann confirmed that his practice was to immediately refer back to her PCP. He did not do this. Dr. Lopes states the failure to inform or refer is a standard of care violation. It would be the same under Dr. Grossmann's own testimony because the defendant can "establish the applicable standard of care, and its breach, by the defendant's own statements." *Oswald v. LeGrand,* 453 N.W.2d 634, 640 (Iowa, 1990). (2) A jury could infer that Dr. Grossmann terminated any of his alleged care for Linda Berry's kidney cyst on October 1, 2009. (3) The letter dated October 6, 2009, was admittedly dictated and sent by him on that date. (App. 76, Para. 22). In the context of the factual situation, it was a material misrepresentation and concealment, given the fiduciary duty owed by Dr. Grossmann. A

jury would have the right to infer this was an intentional concealment, given all of the other circumstances. (4) It is temporally separated from the liability creating event of October 1, 2009. A jury could reasonably find that this letter was simply a deception to Dr. Nikoueiha. They could reasonably infer that, like Gately's silence to the client, it was a deception, not a treatment.

Linda lost her chance for survival as stated by Dr. Lopes. (App. 189-190, attached). She died as a result of Dr. Grossmann and Mercy's negligence.

## CONCLUSION

> "[He] was practiced at the art of deception, Well, I could tell by [his] blood-stained hands". Keith Richards/Mick Jagger, "You Can't Always Get What You Want", 1969.

The Court of Appeals correctly decided this case concluding that there is evidence that Dr. Paul Grossmann and other Mercy medical personnel were guilty of negligence on or about October 1, 2009. There is also evidence Dr. Paul Grossmann concealed this and other negligent acts by dictating and mailing a letter to Linda Berry's primary care physician that was designed to throw him off any level of inquiry he might otherwise undertake concerning her medical condition. Linda justifiably relied on same to her detriment. She died as a result.

The Supreme Court should deny further review in this matter and it should proceed to trial.

Respectfully submitted,

_/s/__Steve Hamilton_____
STEVE HAMILTON, AT0003128
MOLLY M. HAMILTON, AT0013636
Hamilton Law Firm, P.C.
12345 University Avenue, Suite 309
Clive, Iowa 50325
(515) 309-3536
(515) 309-3537 (FAX)
steve@hamiltonlawfirmpc.com
molly@hamiltonlawfirmpc.com
ATTORNEYS FOR APPELLANTS

**CERTIFICATE OF FILING AND SERVICE**

I, Steve Hamilton, hereby certify that I have filed the foregoing "Appellants' Resistance to Application for Further Review" with the Clerk of the Supreme Court of Iowa through the ECF/EDMS System on the 5th day of November, 2021, which constitutes service on all other parties to this appeal pursuant to Iowa Ct. R. §16.315(1)(b).

_/s/__Steve Hamilton_____
STEVE HAMILTON, AT0003128
ATTORNEY FOR APPELLANT

## CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs.App.P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

This brief has been prepared in a monospaced typeface using Courier New in 12 characters per inch and contains 458 number of lines of text, excluding the parts of the brief exempted by Iowa R.App.P.6.903(1)(g)(2).

_/s/ Steve Hamilton_____
STEVE HAMILTON, AT0003128
ATTORNEY FOR APPELLANT

* Transcribed *

Mercy MEDICAL CENTER DES MOINES

Mercy Medical Center-Emergency Department
1111-6th Avenue
Des Moines, IA 50309
(515) 247-3211

Mercy Capitol-Emergency Department
603 E. 12th Street
Des Moines, IA 50314
(515) 643-0011

Patient: Linda Berry

## Discharge Instructions

IMPORTANT: We examined and treated you today on an emergency basis only. In most instances, you will need to be re-examined by your family doctor. Tell your doctor about any new or lasting problems. Also, it is often times impossible to recognize and treat all injuries or illnesses in a single Emergency Department visit. If you have had special tests such as an EKG and / or X-rays, they will be reviewed again within 24 hours by other medical specialists. We will call you if there are additional treatment recommendations. After leaving the Emergency Department, you should FOLLOW THE INSTRUCTIONS BELOW.

You were treated today by Dr. Grossmann

THIS INFORMATION IS ABOUT FOLLOW UP CARE
Call Dr. Grossmann or your doctor if you do not get better. Call sooner if you feel worse. You can reach your doctor by calling their clinic phone number.
YOUR DIAGNOSIS IS: Constipation causing lower abdominal pain.

THIS INFORMATION IS ABOUT YOUR ACTIVITY
We recommend the following for you: Take laxative as directed. Return for evaluation if you develop worsening, severe abd pain; fever w/ temp > 100.5°; inability to vomiting.

YOU ARE THE MOST IMPORTANT FACTOR IN YOUR RECOVERY. Follow the above instructions carefully. Take your medicines as prescribed. Most important, see a doctor again as discussed. If you have problems that we have not discussed, call or visit your doctor right away. If you cannot reach your doctor, return to the Emergency Department.

"I understand the above instructions, and have discussed them in the Emergency Department"

X Linda M Berry
Patient or Responsible Person

M Grossmann
Physician

7210-089-2pt 6-15-04

TO OUR PATIENTS
Your evaluation of the care you received while a patient at Mercy Medical Center is very important. You may receive a phone call within two weeks following discharge. Please take a few moments to answer our telephone survey. Your participation will provide physicians and hospital staff with information that contributes to improved patient satisfaction. Thank you.

Domestic Violence can occur in any relationship. If you feel you are being emotionally and/or physically abused there are resources available to help you. The Family Violence Center can provide confidential shelter, counseling, and supportive services to victims of domestic abuse. Trained staff is available 24 hours a day. Local phone number: 243-6147; State-Wide Hotline: 1-800-942-0333.

SEATBELTS
There is no doubt that seatbelts save lives. Every day in the Mercy Medical Center Emergency Department we see how people who do not wear seatbelts are more severely injured. We care about you, so PLEASE BUCKLE-UP!



White – Medical Record Yellow – Patient Copy

EXHIBIT 4 11-15-19 DD
FENGAD 800-631-6989



MSJ Exhibit H

* Transcribed *

Mercy MEDICAL CENTER DES MOINES

BERRY, LINDA M
[redacted] DOB [redacted]
MR [redacted]
KERR, LENARD M
ERP F 58

| WRITE | DON'T WRITE | WRITE | DON'T WRITE | WRITE | DON'T WRITE | WRITE | DON'T WRITE |
|---|---|---|---|---|---|---|---|
| mL | cc | Every Day | QD | Morphine Sulfate | MS or MSO4 | X | X.0 |
| units | U | Every Other Day | QOD | Magnesium Sulfate | MgSO4 | 0.X | .X |
| Microgram or mcg | µg | International Units | IU | If in doubt, SPELL it out! | | | |

DATE AND TIME OF ENTRY

Gen Surg Consult

10/1/09 1615 S- 58yo female c lower abd pain x 2 days. c/o constipation, denies bloody stools. ~~N/V~~ +N/-V.

ROS: HA, cramping-abd, hard stools

| PMHx | Meds | PSHx | Allg | Social | FHHx |
|---|---|---|---|---|---|
| Depression | Taztia, Lexapro, Celebrex | Chole/o | Cephalosporins | Unremarkable | unremarkable |
| COPD | Clonidine | K, cozaar | PCN | | ROS |
| HTN | Lasix, abil | Ventral Hernia | zithromax | | d/t |
| Hypothyroid | Amitriptyline | | flagyl | | |
| | Synthroid, flovent | | Sprirolactone | | |
| | Seroquel, albuterol, sp | | | | |

VS- 98°, 98, 20, 146/82, 97%0

Gen- AxOx3
CV- RRR
Resp- CTAB
Abd- midline TTP
Ext- No c/c/e

15.0 / 15.5 / 250 / 44.8

UA- neg

AXR - copious stool

Imp: 58 yo Abd pain Lower Quadrant
Leukocytosis
Constipation

Addendum 10/1 1970 - CT= no acute appendicitis. no Bowel content pathology - Imp = constipation or fecalomate hernia

Plan: CT Scan Abd/pelvis
R/o Appendicitis - discharge if CT neg, enemas c Mag Citrate

PATIENT CHART COPY

Plan: d/c home. Mg Citrate. F/u PCP
See next page addendum

6010-019-B-3 (Rev. 1-18-08)

EXHIBIT 2 11-15-1900
PENGAD 800-631-6989

## History And Physical-Consultation

*Request for Electronic Authentication By:*

*GROSSMANN, PAULElectronically Authenticated On: 10/05/2009 10:06 am*

*GROSSMANN, PAULElectronically Authenticated On: 10/05/2009 10:06 am*

## Diagnostic Imaging Historical

DOCUMENT TYPE: CT Abdomen Pelvis W
SERVICE DATE/TIME: 10/1/2009 19:11 CDT
RESULT STATUS: Auth (Verified)
PERFORM INFORMATION:
SIGN INFORMATION: MIRSKY,ROMAN (10/2/2009 16:40 CDT)

CT ,ABD PELVIS W/, CONTRAST
CT ABDOMEN AND PELVIS WITH CONTRAST:

COMPARISON: 12/9/2006.

HISTORY: PAIN.

FINDINGS: SMALL HIATUS HERNIA. LIVER, SPLEEN, LEFT KIDNEY, ADRENALS, PANCREAS ARE UNREMARKABLE. EXOPHYTIC 6.2 CM CYST LOWER POLE RIGHT KIDNEY, PREVIOUSLY MEASURING 4.8 CM. APPENDIX IS UNREMARKABLE. MILD SEGMENTAL WALL THICKENING OF THE MID SIGMOID COLON OVER A LENGTH OF APPROXIMATELY 12-15 CM WITH HAZY SURROUNDING INFLAMMATORY CHANGE IN THE MESOSIGMOID. APPENDIX IS UNREMARKABLE. NO ASCITES OR LYMPHADENOPATHY.

IMPRESSION:

1. MILD SIGMOID COLITIS, MOST LIKELY OF EITHER INFECTIOUS OR ISCHEMIC ETIOLOGY.

2. LARGE EXOPHYTIC CYSTIC MASS LOWER POLE RIGHT KIDNEY, INCREASED IN SIZE COMPARED TO THE PREVIOUS EXAMS OF 12/9/2006 AND 7/6/2004. NO SUSPICIOUS IMAGING FEATURES SUCH AS THICK SEPTAE OR SOFT TISSUE ENHANCEMENT ARE IDENTIFIED, HOWEVER THE INCREASE IN SIZE IS WORRISOME FOR CYSTIC RENAL CELL NEOPLASM. CONSIDER FURTHER EVALUATION WITH CONTRAST ENHANCED MRI TO FURTHER EVALUATE THE INTERNAL CHARACTERISTICS OF THIS MASS.

3. SMALL HIATUS HERNIA.

END OF REPORT

Signs and Symptoms:ABDOMINAL PAIN

Patient Name: BERRY, LINDA MARIE
Date of Birth: 1/27/1951

MRN: 005037882
FIN: HQ5755389274

* Transcribed *

BERRY, LINDA M
000575538-9274
[redacted]

Mercy
MEDICAL CENTER
DES MOINES

Mercy Medical Center-Emergency Department
1111-6th Avenue
Des Moines, IA 50309
(515) 247-3211

Mercy Capitol-Emergency Department
603 E. 12th Street
Des Moines, IA 50314
(515) 643-0011

Patient: Linda Berry

## Discharge Instructions

**IMPORTANT:** We examined and treated you today on an emergency basis only. In most instances, you will need to be re-examined by your family doctor. Tell your doctor about any new or lasting problems. Also, it is often times impossible to recognize and treat all injuries or illnesses in a single Emergency Department visit. If you have had special tests such as an EKG and / or X-rays, they will be reviewed again within 24 hours by other medical specialists. We will call you if there are additional treatment recommendations. After leaving the Emergency Department, you should FOLLOW THE INSTRUCTIONS BELOW.

You were treated today by Dr. Grossmann

**THIS INFORMATION IS ABOUT FOLLOW UP CARE**
Call Dr. Grossmann or your doctor if you do not get better. Call sooner if you feel worse. You can reach your doctor by calling their clinic phone number.
YOUR DIAGNOSIS IS:
Mild Sigmoid Colitis

**THIS INFORMATION IS ABOUT YOUR ACTIVITY**
We recommend the following for you: Take antibiotics as prescribed. See Dr. Grossmann in clinic in 1wk. Return for evaluation if your develop fever, temp 101.5 or intractable nausea, vomiting or diarrhea

**YOU ARE THE MOST IMPORTANT FACTOR IN YOUR RECOVERY.** Follow the above instructions carefully. Take your medicines as prescribed. Most important, see a doctor again as discussed. If you have problems that we have not discussed, **call or visit your doctor right away.** If you cannot reach your doctor, return to the Emergency Department.

**"I understand the above instructions, and have discussed them in the Emergency Department"**

Linda M Berry
Patient or Responsible Person

Physician

7210-038-2pt 6-15-04

**TO OUR PATIENTS**
Your evaluation of the care you received while a patient at Mercy Medical Center is very important. You may receive a phone call within two weeks following discharge. Please take a few moments to answer our telephone survey. Your participation will provide physicians and hospital staff with information that contributes to improved patient satisfaction. Thank you.

Domestic Violence can occur in any relationship. If you feel you are being emotionally and/or physically abused there are resources available to help you. The Family Violence Center can provide confidential shelter, counseling, and supportive services to victims of domestic abuse. Trained staff is available 24 hours a day. Local phone number: 243-6147; State-Wide Hotline: 1-800-942-0333.

**SEATBELTS**
There is no doubt that seatbelts save lives. Every day in the Mercy Medical Center Emergency Department we see how people who do not wear seatbelts are more severely injured. We care about you, so **PLEASE BUCKLE-UP!**



White – Medical Record  Yellow – Patient Copy

General Surgery Consultation July, 25, 2018

Please accept this document as my initial expert report and opinions.

CREDENTIALS:

I am a medical doctor licensed to practice medicine in the state of New Jersey. I am a board certified, fellowship-trained expert in General and minimally invasive surgery. I have been licensed in the State of New Jersey since 2011 in the area of General surgery. I am certified by the American Board of Surgery. I am currently in a private General surgery practice in New Jersey.

I majored in Cognitive Neuroscience and graduated with Honors and a Bachelor of Science from Yale University, from where I obtained my undergraduate degree. Additionally, I did my General surgery residency at Indiana University and my Minimally Invasive Fellowship at University of Florida.

Based on my review of materials in this case, my education, and my experience, I have reviewed the care provided by Defendant, Dr. Grossman, with respect to the standard of care for General Surgery and have concluded the following:

A lack of appropriate management of the incidental finding on CT scan led to a delay in workup and intervention and was a violation of the standard of care.

I have reviewed the medical records sent to me from the time period 2004- 2016. After reviewing the records, there is no written documentation that would indicate that Ms. Berry was explained in laymen's terms in regard to her kidney lesion, which would be considered the standard of care. There was ample opportunity for a discussion to be had between Ms. Berry and her Mercy physicians, not only as an inpatient, but also when the patient was followed up in the outpatient setting. However, there is no written proof that discussions between any physician and the patient in regard to these findings occurred. This would explain why when Ms. Berry fills out her intake forms as an outpatient or during her ER visits on multiple occasions, she doesn't indicate that she has any issues with her kidney.

Ms. Berry presents to Mercy in 2006 for a hernia evaluation. During her intake form, the Genito-urinary section is left blank, including "Kidney Problems", however, she remembers to mark down that she has "leaking valves." Clearly, Ms. Berry has a recall of her complex medical history, which she demonstrates on multiple ER and outpatient Mercy office visits, however, she seemingly fails to disclose that she has a kidney mass on all medical history questionnaires. Another example occurs when Ms. Berry was discharged on 10/1/09 from the hospital. She then represents to the emergency department on 10/4/09. When asked about her medical problems, she is able to name six different drug allergies showing her memory is intact but does not mention any kidney abnormalities. If a lay person were recently told of a growing kidney mass 72 hours prior, they would at least mention that she has something "wrong" with her kidney, and ignore any medical nuances beyond this level of understanding. The lack of recall of her kidney issues is seen once again on her intake at her 10/6/09 office visit. On that outpatient office intake form, she is able to fill out a complete medical history including allergies, as well as recite her complex medical history- but does not mention the renal mass - something new that she would have been told about that same week.

The lack of communication between Mercy physicians and Ms. Berry's PCP at Broadlawns began back in 2004. Ms. Berry presented to Mercy with an infection of her buttock. A CT scan of the abdomen and pelvis was obtained, which demonstrated a "small nodule lower pole right kidney. This is indeterminate on the basis of this study; further evaluation is recommended with renal ultrasound." The ultrasound was obtained, which demonstrated "simple renal cyst...no other renal abnormalities are demonstrated." Although at this point in time, the finding was benign, it was still not relayed to either the patient or the PCP in order to initiate a follow-up protocol. In 2006, Dr Whitmer, does send a dictated General surgical consultation in regards to the hernia to Ms. Berry's PCP, however the renal nodule is excluded from the active problem list. Thus, at this point in time, there was no relay of the incidental finding to the patient or her PCP.

The right renal mass, which continued to grow and continued to be an ignored incidental finding and not addressed appropriately continues in 2009. General surgery teams ordered both CT scans performed on Ms. Berry during her 10/1 and 10/4/09 ER visits. With liberal use of computed tomography in the diagnostic management of patients, incidental findings are common and represent a major patient-care concern. As the ordering physician, they are responsible for all findings, incidental or not. On the 10/4/09, on the CT scan report, there is a hand-written signature determined to be Dr Grossman's - thus signifying his acknowledgment of the results, and acceptance of all findings on that report. It is his responsibility to manage the renal mass, not directly as it is not his field, but either by referring to a specialist (urology or oncology), referring Ms. Berry back to her primary care doctor or order an MRI for further work-up. None of these options were undertaken. Instead, the findings were disregarded, and the tumor was allowed to become malignant and metastasize. Due to the change in tumor characteristics, it is imperative that these findings on Ms. Berry's CT scan not be ignored, but instead she be placed on a diagnostic and treatment algorithm to ensure a favorable outcome. Otherwise, if ignored, the mass, as most cancers, will grow and spread ultimately leading to patient demise; which unfortunately was the case for Ms. Berry.

Furthermore, after reviewing the charts from Ms. Berry's primary care physician, who is not part of the Mercy medical system, there is also lack of communication of the kidney lesion to them as well, which again would be against standard of care. There was no forwarding of radiological imaging, nor radiological reports; nor were there any discharge summaries from hospitalizations at Mercy noting the growth in lesion and concern from the radiologist in 2009. The 10/4/09 general surgical consultation notes nor the 10/6/09 office notes fail to mention the same renal tumor. The only written documentation that was sent to Ms. Berry's primary doctor came in 2004, mentions "CT with renal nodule- found to be a cyst on US". There was no similar transference of data from her admitting physicians, nor her discharging physicians.

The office note dictated by Dr. Grossman and sent to Dr. Nikoueiha, summarizes Ms. Berry's colitis management and the need for a colonoscopy and stool cultures. However, the note does not mention the new finding of a large right renal mass, which has been present on two CT scans and/or the need for further work up with an MRI. Dr. Grossman does not order the MRI or other workup (ie Urology or oncology consults). He does however set up a colonoscopy for four weeks later, which he performs. Dr. Nikoueiha, Ms. Berry's PCP, does not work in the Mercy medical system so cannot obtain radiology results directly. He is dependent on what he is being sent to him from outside consultants to update his own medical records of Ms. Berry. Unfortunately, no CT scan report was sent to Dr. Nikoueiha's office, thus at this point, Ms. Berry's PCP is not made aware of the Renal mass. The only physician that is aware of the large renal mass remains Dr. Grossman, who fails to manage the necessary work-up.

My opinions herein are based on the available medical records and I expressly reserve the right to alter my opinions if and when new records are provided to me for review and analysis. My opinions rendered herein are meant to apply solely to the specific circumstances of this case involving Ms. Berry and shall not be used for any other purpose.

The information contained in this document was prepared by and is the product of the undersigned and is true to the best of my knowledge and information.

Sincerely,

James M. Lopes, M.D.

Board-Certified Surgeon

Certified by the American Board of Surgery

Patient's full name: LINDA MARIE BERRY
Birthdate: [redacted] Today's Date: 10-06-09

## Patient Medical History:

Doctor who requested today's appointment: (first and last name) MERCY HOSP. TA

Who is your Family doctor? (first and last name) DR. N. COVILA

Reason you are seeing the doctor and your current symptoms? COLITIS

**Medication Allergies:** ZITHROMAX PEN FLAGIL SPIRONOLACTONE, CEFDOR, ANY ANTIBIOTICS CONTAINING CEPHLA SPORINS

Any other allergies (latex, rubber, etc.)?

Current medications (prescription **and** over the counter):

**Personal History of illness** (do you experience any of the following?)

| | | | | |
|---|---|---|---|---|
| **General:** | ___Fever | ___Weight Loss | X Weight Gain | X Fatigue |
| | X Chills | X Trouble Sleeping | | |
| **Head:** | ___Vision problems | ___Hearing Problems | ___Sinus Problems | |
| **Cardiovascular:** | X High Blood pressure | ___Heart Disease | X Heart murmur ? | ___Chest pain |
| **Respiratory:** | ___Cough | X Shortness of Breath? | ___Asthma | |
| **Gastrointestinal:** | X Nausea/Vomiting | ___Ulcers | X Colitis | ___Change in Bowel Habits |
| | X Blood in stool | ___Trouble Swallowing | ___Hiatal Hernia | X Stomach Pain |
| | X Hemorrhoids | ___Hepatitis | X Constipation | X Diarrhea |
| **Genitourinary:** | ___Painful/burning on urination | | ___Kidney Disease | IBS SYNDROME |
| **Musculoskeletal:** | X Arthritis/joint pain | X Ankle swelling | X Back pain | |
| **Hematologic/ Oncologic** | X Cancer SKIN | ___Clotting disorder | ___Anemia | |
| | ___Bleeding | ___Blood Clots | ___Phlebitis | *trichoepithelioma |
| **Endocrine:** | ___Diabetes | X Thyroid | | |
| **Neurologic** | X Headache | ___Stroke | ___Seizures | |
| **Psychiatric:** | X Depression | ___Anxiety | ___Chemical dependency | |

Have you had a colonoscopy? YES If so, when 2 YRS. AGO Have you had a mammogram? YES If so, when 6 MONTHS

| **Surgeries and Hospitalizations:** | Year | | Year |
|---|---|---|---|
| 1. GALLBLADDER | 2003? | 4. SURGERY o SKIN GRAFT | 2009 |
| 2. HERNIA | 2005? | 5. SKIN CANCERS | |
| 3. CARPAL TUNNEL & DEQUERAINS | 1999 | 6. | |

**Family History:**
Is there any history of the following diseases in your family? If yes, indicate which relative.

| DISEASE | WHICH RELATIVE | DISEASE | WHICH RELATIVE |
|---|---|---|---|
| Cancer (type) | CERVICAL MOTHER | Heart Disease (type) | FATHER |
| Blood Clots | NO | Bleeding tendency | NO |
| Reaction to Anesthesia | SISTER | | |

**Social History:**
X Married __Widowed __Single __Divorced __Other Occupation:

Tobacco use: ___No If quit, how long ago did you smoke? ___ X Yes – How much 1 PACK A DAY Year began 1966
Caffeine use: ___No X Yes – How much
Alcohol use: X No ___Yes – How much

Drug Use: ___No ___Yes – How often
(i.e: marijuana, cocaine, heroin, methamphetamine)

Do you have a Living Will/Advanced Directives? ___Yes X No Do we have a copy? ___Yes ___No

Mercy Clinics
SURGICAL AFFILIATES
A member of Mercy Medical Center - Des Moines

411 Laurel St., Suite 2100
Des Moines, IA 50314-3089
P 515-247-3266 F 515-643-8688

GENERAL SURGERY/
ADVANCED LAPAROSCOPY
Steve Cahalan, M.D., F.A.C.S.
Mark L. Smolik, M.D., F.A.C.S.
Susan L. Beck, D.O., F.A.C.O.S.
Dennis Whitmer, D.O.
Jeffrey Maus, D.O.
Paul A. Grossmann, M.D., F.A.C.S.
Soren R. Kraemer, M.D., F.A.C.S., F.A.S.C.R.S.
Ryan J. Roe, D.O.
Charles D. Goldman, M.D., F.A.C.S.
Jan Franko, M.D., Ph. D.

SURGICAL ONCOLOGY
Charles D. Goldman, M.D., F.A.C.S.
Jan Franko, M.D., Ph. D.

GENERAL SURGERY/
BARIATRIC SURGERY
Steve Cahalan, M.D., F.A.C.S.
Mark L. Smolik, M.D., F.A.C.S.

COLORECTAL SURGERY
Soren R. Kraemer, M.D., F.A.C.S., F.A.S.C.R.S.

KATZMANN BREAST CENTER
1601 NW 114th Street, Suite 151
Clive, Iowa 50325
(515) 222-7830

Steve Cahalan, M.D., F.A.C.S.
Susan L. Beck D.O., F.A.C.O.S.
Dennis Whitmer, D.O.
Jeffrey Maus, D.O.
Paul A. Grossmann, M.D., F.A.C.S.
Charles D. Goldman, M.D., F.A.C.S.
Jan Franko, M.D., Ph. D.

October 6, 2009

Broadlawns Family Medicine
1801 Hickman Road
Des Moines, IA 50314

RE: Linda Berry
DOB: [redacted]

To Whom It May Concern:

I had the pleasure of seeing Linda Berry in my Mercy West office today for follow-up of her recent observation for lower abdominal pain and diarrhea. Her CT at that time showed evidence of a sigmoid colitis. We sent her home on Levaquin, as she could not have Flagyl because she is allergic to that. She says that since then, she has continued to have multiple loose stools with some jelly-like substance within them. She feels a lot of pressure in her lower abdomen and some pain, which radiates down to her rectum. She has had some nausea, although she says that is improving. She has felt some hot flashes, but she did not take her temperature. She came back to the emergency room on October 4, 2009 and had a repeat CT scan, which showed improvement of the sigmoid pericolonic inflammatory changes.

On examination today, she continues to have some tenderness in the lower abdomen, but certainly no worse than before and I would say somewhat better. However, examination compromised due to the patient's size.

IMPRESSION:
1. Abdominal pain with diarrhea and evidence of improving colitis on CT.

RECOMMENDATION/PLAN: Our plan is to continue her on Levaquin. I am going to check some stool cultures and hopefully this will resolve non-operatively, in which case I would recommend a colonoscopy in about three to four weeks.

Thanks again for allowing me to participate in the care of your patient.

Sincerely,

*(Letter is mailed before doctor's review to expedite letter)*
Paul A. Grossmann, M.D.

PAG/dlm RD: 10/06/09

PLAINTIFF'S EXHIBIT 11 Dr. Grossmann 12/4/19

MSJ Exhibit L

UNIVERSITY OF IOWA HOSPITALS & CLINICS
University of Iowa Health Care

PT. NAME: Berry, Linda M
MRN: 03706527, DOB: [redacted] Sex: F
Encounter date: 4/28/2016

All Notes

Clinic Note by Miller, Benjamin J, MD at 4/28/2016 12:00 PM

Author: Miller, Benjamin J, MD | Service: Orthopedics | Author Type: Physician-Staff
Filed: 4/29/2016 3:26 PM | Encounter Date: 4/28/2016 12:00 PM | Status: Signed
Editor: Miller, Benjamin J, MD (Physician-Staff)
Related Notes: Original Note by Kain, Jill M, ARNP (Nurse-ARNP) filed at 4/29/2016 11:05 AM

## Clinic Note

**Encounter Date:** 4/28/2016

**Subjective:**

**History of Present Illness/Past History**
Linda M Berry is 65 y.o. female who presents as a new patient for evaluation of a pathologic left proximal humerus fracture. She states prior to the fracture which she sustained when she fell against her bathroom counter while trying to get off the toilet, she had about 5 weeks of left shoulder/arm pain. On Saturday, April 23 she lost her balanced and fell against the side of her counter and heard her arm "pop". This was accompanied by excruciating sharp pain. She was taken via ambulance to Mercy Hospital in Des Moines where she was admitted. CT of the shoulder was done and concerning for pathologic fracture. The patient saw an orthopedist in Des Moines who referred the patient to UIHC Ortho Tumor Service. In the meantime, a CT chest/abd/pelvis at Mercy revealed a right renal mass that in comparison to a 2009 CT abdomen had grown significantly. The patient states she was unaware of a "mass on my kidney." For the arm, she was placed in a sling and discharged on hydrocodone for pain control. She has been taking 2 hydrocodone every 4-6 hours routinely and has a lot of discomfort in the arm.

The patient denies symptoms including: fever, chills, night sweats, unintentional weight loss, bowel/bladder changes, lymphadenopathy. Other than 5 weeks of left shoulder/arm pain she has noted increased fatigue as her only constitutional symptom. She notes "bleeding from my uterus" for which she has never had work-up either.

Past Medical History
PCP--Dr. Ashley Mathes at Broadlawns

Familial? Trichoepithelioma (Brooke Spiegler syndrome?) She denies neurofibromatosis diagnosis.
Familial? Cylindroma
H/O Basal cell skin cancers
COPD
Morbid Obesity
HTN
Hypothyroidism
Bilateral leg swelling
Mammogram 6 months ago was normal
Former tobacco use, quit 2 years ago, smoked 1-2ppd x 30 years