

ACE Podiatry Plus Case of the Month September 2008

Dysfunctional Hand after Surgery

A patient had scar tissue on his hand as the result of a severe electrical burn received years before. The patient consulted a surgeon, seeking improved function of his hand. On several occasions, the surgeon strongly recommended an innovative operation, which he had read about and was anxious to try.

The patient was reluctant to undergo surgery. Before deciding, the patient asked the surgeon, "How long will I be in the hospital?" The surgeon said, "Not over four days; then you can go home, and in a few days you will go back to work." The surgeon also said, "I will guarantee to make the hand a 100 percent good hand." Eventually the surgeon persuaded the patient to consent to the operation.

The procedure produced a dysfunctional hand. As a result of the complications of the procedure, the patient had to stay in the hospital well beyond four days. The patient sued the surgeon for breach of contract, in terms of both the hospitalization period and the functional result of the operation. The surgeon contended that even if he did tell the patient that he would make a good hand, a reasonable person would have understood that the words were not used with the intention of entering into a contractual relationship.

You can reasonably infer that the surgeon solicited the patient to undergo surgery because the:

Answer

Patient was repeatedly reluctant to undergo surgery.
True or False

Surgeon repeatedly urged the patient to have the surgery.
True or False

Surgeon wanted to therapeutically reassure the patient.
True or False

Surgeon guaranteed certain results from the surgery.
True or False

General principle drawn from your analysis of this case:

Answer

A physician who promises a specific result in order to obtain a patient's consent to a procedure is liable to the patient if the specified result is not achieved.
True or False

For answers to the quiz above, and a short discussion of the case, click here
<http://m1e.net/c?84070645-XTkzpvIx8lGA6%403557423-BZBdxrsRoIT/A>.

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