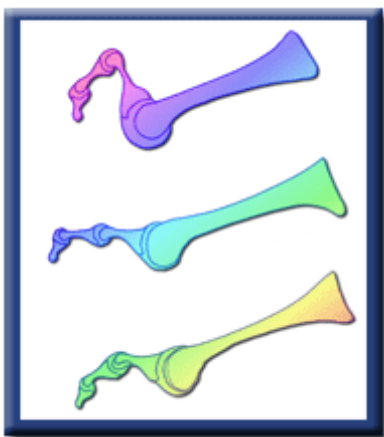


PODIATRY MALPRACTICE OF NEW YORK

Podiatry Malpractice

Hammertoe Surgery

A Hammertoe is a toe which is curved at one or more of its joints.



Many patients with hammertoes have NO symptoms at all and therefore do not need surgery. Some of these patients are warned to have surgery to avoid future problems. However, there may never be future problems. You should never be talked into having this surgery and should always get another opinion.

Some hammertoes cause pain, typically from corns on top of the bent joint and rubbing inside the shoe. Surgery can usually correct this. Some patients only need a tendon cut. Other patients may need the joint removed or re-shaped. These surgeries are not complicated and should result in a straighter toe with no more pain. However, if performed improperly, the toe can become twisted and distorted or the toe may not touch the ground anymore.

Some surgeries to fix hammertoes require the use of a pin, a metallic rod that goes completely through the center of the bones of the toe. This is done to keep the small bones in place as the tissues heal. The patient must be told of the risk in using a pin and the risk if no pin is used. The patient should never come out of the surgery and be surprised by a pin coming out the end of their toe.

Diabetic Ulcers

The Journal of Foot & Ankle Surgery recently published "Diabetic Foot Disorders - A Clinical Practice Guideline" (Sept/Oct 2006, Vol. 45, No. 5). This is a very important publication for podiatrists. The Guidelines spell out the kind of treatment needed for the diabetic foot based on current practice and recent literature. The publication cited a few important statistics:

*Podiatry
Malpractice*

*Medical
Malpractice*

*Dental
Malpractice*

*Chiropractic
Malpractice*

*Commonly Asked
Questions*

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- 20.8 million people in the U.S. have diabetes
- 15% of those with diabetes will "develop a lower extremity (leg/foot) ulcer during the course of their disease."
- Foot ulceration "is the precursor to approximately 85% of lower extremity of amputations in persons with diabetes."
- Hispanics and African Americans have up to twice the chance of a diabetic-related amputation compared to Caucasians.

These statistics show that foot ulcers are serious conditions and that some lead to amputation (of a toe, foot or leg). Non-Caucasians have a greater chance of a poor outcome. However, this publication outlines very specific treatments for the diabetic foot at different stages. Although the statistics sound grim, the conclusion of this report gives hope to those *who get prompt and proper treatment from their foot doctor*:

"Not all diabetic foot complications can be prevented, but it is possible to dramatically reduce their incidence through appropriate management and prevention programs."

These are just some of the questions your podiatrist should be asking if you have a foot ulcer:

- How good is the blood flow to the foot, especially the toes?
- Is the patient wearing the proper kind of shoes which do not cause rubbing and irritation?
- Does the patient have "neuropathy" (lack of or changes in sensation)?
- Is the patient returning for regular, frequent visits, especially if they have the beginning of an ulcer, or even cracked skin known as "fissures?"
- Is the patient's diabetes under the best control by their doctor?
- Should the patient be referred to a vascular surgeon for a surgical by-pass to get more blood into the foot?

If after many visits to the podiatrist your foot ulcer keeps getting worse and you eventually have an amputation of your toe, or foot, or worse, you should find out if you received the proper treatment for your condition and whether your amputation was avoidable.

Unnecessary or Multiple Surgeries

Some patients require surgery to correct a serious and disabling problem, or unrelenting pain. Other patients do not have a serious problem and surgery is purely optional. You should never be talked into surgery. Many working patients find themselves walking into a podiatrist's office during lunch time and are advised to have all sorts of surgery on conditions which they did not know they had or which cause no discomfort or pain. Most patients in this position are women between the ages of 25 and 65. Some are told that in order not to miss work, they can have surgery broken into "small" surgeries and some patients wind up having 30 or more surgeries to their feet. This may turn out to be the completely wrong way to surgically deal with a specific foot problem. You should never agree to this kind of surgery without speaking to other podiatrists.

Just because you think you have had too many surgeries does not mean malpractice was committed. But, if you have gone through many foot surgeries, especially for the exact same problem, you may have been the victim of podiatric malpractice. The best way to find out is to have your attorney obtain all of your podiatric records and x-rays and consult with an expert podiatrist.

All Podiatric Surgery

The most serious and disabling podiatric errors are usually made in surgical cases. Even though much foot surgery is performed in the office, foot surgery is just like any other surgery:

- There are **no short-cuts** to be taken just because the surgery is performed in the podiatrist's office.
- Your podiatrist should take a **thorough history**, perform a **careful examination**, review **x-rays** and have a specific surgical plan.
- You must be given a **written consent** form and you must be allowed to read it and understand it without being rushed. You should not be given the form for the first time in the operating room, minutes away from the beginning of surgery.
- In addition to the written consent, your podiatrist should **fully explain** your condition, the proposed surgery, and its risks and alternatives including not having surgery and instead trying other treatment.
- You should **not be rushed** into surgery. You should be given sufficient time to consider your options and not be convinced to have the surgery the first visit to the podiatrist especially if the surgery is merely elective and not an emergency.
- As with any other surgery, the **post operative course** is important and you should be fully aware of what is involved and the degree of temporary disability you can expect. The patient has the responsibility to follow the podiatrist's instructions and return for all scheduled visits. On the other hand, the podiatrist should give specific instructions so that the patient knows exactly what they should and should not do during the healing process.
- As with any other kind of treatment, you have the right to get a **second opinion** and for most foot surgery the patient should get that second opinion. At times, if the condition or treatment is complicated, the patient may need additional opinions.

AsYour Attorney

In representing my clients, I believe it is important to:

- Be familiar with the **treatment** and **surgery** involved in the case
- Be able to read and understand **podiatry records**
- Be able to read foot **x-rays**
- Know the **anatomy** of the foot including every bone, tendon, ligament, nerve and blood vessel and what their importance is to proper foot function
- Know the specific **technical steps** in the surgery involved in the case
- Understand the **biomechanics** of the foot and how foot injuries change those biomechanics
- Know the kind of **training** available to podiatrists including the significance of Board certification
- Know the **terminology** used by podiatrists

Podiatrists generally have insurance companies and defense counsel who are very experienced and whose job it is to defend that podiatrist. The victim of podiatry malpractice should likewise have an attorney with experience handling this specific type of malpractice case, one whose knows as much about the technical podiatric issues as the podiatrist involved does.

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