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Doctor lawsuit

State panel concludes surgeon was negligent

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A Big Island woman and her husband are suing Kona Community Hospital and a doctor for alleged medical malpractice.

The lawsuit, filed Wednesday in Kona, alleges that Dr. Alistair Bairos failed to take standard precautions during a gall bladder operation, causing bile to leak into Sheryll Kaniho's abdominal cavity.

Miles Takaaze, public affairs director for Hawaii Health Systems Corp. -- which manages Kona Community Hospital -- said hospital officials have not yet seen the lawsuit.

"In light of the litigation process, particularly those pertaining to patient matters," he said, "it's extremely difficult for Kona Community Hospital to speculate or provide relevant comment."

The Tribune-Herald was unable to reach Bairos for comment.

According to the lawsuit filed by Waimea attorney Jerry Hiatt, Kaniho went to the hospital's emergency room complaining of abdominal pains on Sept. 19, 2003. She was diagnosed with gallstones and was told the pain would diminish significantly as soon as her gall bladder was removed. Bairos performed an operation that dissects the gallbladder from the liver, called a laparoscopic cholecystectomy.

The complaint alleges that the doctor didn't properly close the vessels between the gallbladder and liver. According to the lawsuit, each of two vessels running to the gallbladder should have been tied off with sutures or closed with two clips but Bairos only used one clip on each end.

"Dr. Bairos acknowledges that a single clip violates the standard of care and that two clips are required by the standard of care," the lawsuit alleges. "Dr. Bairos maintains that he used two clips despite the X-rays and other medical records showing only one clip was used."

After the operation, Kaniho complained of severe abdominal pain and nausea. The nurses told her it was only gas and encouraged her to walk, the lawsuit alleges. "At one point, one nurse told Mrs. Kaniho to 'suck it up' in response to her complaints of pain."

On the third day after surgery, Bairos ordered an ultrasound and found "free fluid present throughout the abdomen and pelvis," the lawsuit alleges. The next day Kaniho was released from the hospital. She threw up in the elevator as hospital staff were escorting her out.

The next day her symptoms were worse. "At that point Mrs. Kaniho was in such extreme pain that she called her husband and stated that she was ready to kill herself," the lawsuit alleges. Her husband, Guy Kaniho, is a former Hawaii County Police Department detective, and he was worried because he had handguns in the home, the lawsuit alleges. He and their children rushed home.

The next day Mrs. Kaniho went back to the emergency room and was later transferred to North Hawaii Community Hospital for major surgery to repair the bile leak.

According to the lawsuit, Bairos and Kona Community Hospital breached the accepted standards of medical care. As a result, Kaniho suffered physical and emotional suffering and financial losses. The Kanihos are seeking an unspecified amount of money as compensation.

Last month, a medical claims panel for the state Department of Commerce and Consumer Affairs concluded that the hospital was not negligent but that Bairos was. It recommended a settlement of \$860,000, but the recommendation was not binding.

Hiatt said he filed the lawsuit because Bairos ignored the recommendation.

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