ObGyn leaving for vacation urges induction

AN OBGYN OFFERED TO INDUCE LABOR at 39 weeks' gestation for a couple's first child because she was anticipating a vacation. In counseling, the ObGyn revealed no significant risks. The parents agreed and went to the hospital that afternoon.

Induction included cervical ripening with misoprostol followed by oxytocin, resulting in uterine tachysystole and an abnormal fetal heart-rate pattern. The child was born by cesarean delivery 25 hours after labor began.

The child suffered hypoxia, which caused hypoxic-ischemic encephalopathy, cerebral palsy, and spastic quadriparesis. He will always require 24-hour care.

PATIENT'S CLAIM Induction of labor was medically unnecessary. Informed consent was incomplete: induced labor increases the risks of hyperstimulation of labor, failure to progress, and cesarean delivery. The ObGyn was negligent: She had admitted several patients to labor and delivery that day, and delivered five babies in 19 hours, including three "unscheduled" cesarean deliveries. Because of the patient load, she was busy with other patients when a cesarean delivery became urgently needed for this baby. Hyperstimulation and fetal heart-rate abnormalities continued for several hours.

DEFENDANTS' DEFENSE The suit was settled before trial.

VERDICT A $5.5 million Missouri settlement was reached against the ObGyn and hospital. The hospital was also required to implement new policies on induction, augmentation of labor, and informed consent.

Insulin wasn't given to diabetic mother during labor

A PREGNANT WOMAN had pregestational insulin-dependent diabetes. She was not given insulin despite having an elevated blood glucose level at admission and during 26 hours of labor. The mother developed diabetic ketoacidosis. The fetus suffered severe ketoacidosis-induced hypoxic ischemic encephalopathy. At delivery, the infant was resuscitated, but was severely brain damaged. Life-support was withdrawn after 6 days, and the child died.

PATIENT'S CLAIM The mother alleged emotional distress for injury to the fetus in the womb, and wrongful death of the infant.

PHYSICIAN'S DEFENSE Settlements were reached during pretrial mediation.

VERDICT Virginia settlements included $1,000,000 for the wrongful death claim and $200,000 for the mother.

Bowel was perforated during hysterectomy

AFTER CONSERVATIVE MANAGEMENT of menorrhagia and dysmenorrhea, a 49-year-old woman underwent total abdominal hysterectomy. Her ObGyn performed the surgery, and his partner monitored the woman's 2-day hospital stay. A return of bowel function was noted before her discharge.

Six days postoperatively, the patient contacted the ObGyn's office, complaining of passing fecal matter through her vagina. Readmitted to the hospital, she was found to have a bowel perforation and vaginal fistula. The next day, the bowel was surgically repaired, and a colostomy was performed. The colostomy was reversed, successfully, 6 months later.

PATIENT'S CLAIM The ObGyn was negligent in failing to diagnose and repair the bowel perforation during surgery. A 2-cm perforation would have been visible, and subsequent surgeries and colostomy could have been avoided. She suffered another surgical scar, and could have lifelong problems with motility and bowel function. She has permanent abdominal pain.

PHYSICIAN'S DEFENSE Bowel injury is a known risk of the procedure. The woman had pre-existing abdominal adhesions from prior surgeries, which made a bowel injury more likely. The injury was undetectable during the initial surgery because it was a partial cut or tear that progressed to full perforation after normal bowel function returned. The perforation was diagnosed and repaired as quickly as possible.

VERDICT An Illinois defense verdict was returned.

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These cases were selected by the editors of OBG MANAGEMENT *from* Medical Malpractice Verdicts, Settlements & Experts, *with permission of the editor, Lewis Laska (www.verdictslaska.com). The information available to the editors about the cases presented here is sometimes incomplete. Moreover, the cases may or may not have merit. Nevertheless, these cases represent the types of clinical situations that typically result in litigation and are meant to illustrate nationwide variation in jury verdicts and awards.*

The Editors acknowledge the assistance of Victor Bergman, Esq, of Shamberg, Johnson & Bergman, in preparing this installment of Medical Verdicts.

PHOTO: SHUTTERSTOCK

Genetic defect missed on prenatal US

A PREGNANT WOMAN SAW a maternal-fetal medicine specialist, and a sonogram showed a jaw abnormality. The child was born with Treacher Collins syndrome, a genetic defect that leads to craniofacial deformities. The child has a misaligned jaw and trachea, is deaf and disfigured. She has undergone several surgeries and is expected to require more.

PATIENT'S CLAIM The mother would have chosen to terminate the pregnancy had she been given an accurate diagnosis after ultrasonography.

PHYSICIAN'S DEFENSE The case was settled before trial.

VERDICT A $2.25 million New Jersey settlement was reached.

Did inept response to fetal distress cause brain damage?

DURING LABOR, the fetus showed signs of absent or minimal heart-rate variability that lasted until delivery. The child was born with brain damage, does not have use of his limbs, is blind, and requires 24-hour care.

PATIENT'S CLAIM Neither the resident nor nurses responded to signs of fetal distress. The resident also failed to respond to tachysystole. The ObGyn did not properly supervise the resident, did not review fetal monitoring strips, and did not examine the mother until 8 hours after she arrived. Labor was allowed to continue despite fetal distress; reduced oxygen flow to the fetus caused the injury.

DEFENDANTS' DEFENSE The case was settled before trial.

VERDICT A $14 million New Jersey settlement was reached against the hospital and ObGyn.

Excessive traction blamed for nerve injury

AN INFANT'S LEFT ARM WAS FLACCID after vaginal delivery. The child has limited range of motion and loss of strength in the left arm. Shoulder surgery has been recommended.

PATIENT'S CLAIM Excessive force and traction were exerted on the baby's head after encountering shoulder dystocia. This caused a stretch injury to the brachial plexus nerves at C5–6.

PHYSICIAN'S DEFENSE The McRobert's maneuver was properly used to resolve shoulder dystocia. Only gentle downward traction was used.

VERDICT An Illinois defense verdict was returned.

Drug error leads to nipple necrosis

AT RIGHT BREAST EXCISIONAL BIOPSY, a woman was given four localized injections in the same tissue space: methylene blue dye; bupivacaine, 0.25 mg with epinephrine; sodium phosphate, 2 cc; and sodium bicarbonate, 2 cc. After surgery, the patient's right nipple began to turn black and became necrotic. A wound specialist advised her to have the nipple removed and the area debrided. She received wound treatment for several months.

PATIENT'S CLAIM Medical center staff was negligent, including OR nurses and physician who injected the sodium phosphate.

DEFENDANTS' DEFENSE The physician who administered the sodium phosphate testified that she injected less than 1 cc before realizing the mistake. An OR nurse contacted the pharmacy; the pharmacist did not believe that there would be any damage. After surgery, the defendants admitted their error to the woman.

VERDICT Suits against the physician who injected the sodium phosphate and OR nurses were dismissed prior to trial. A $23,363 Idaho verdict was returned against the medical center.

Death postop from bowel injury

A WOMAN UNDERWENT SURGERY for blocked fallopian tubes and adhesions—procedures recommended by her ObGyn to improve her chance of successful in vitro fertilization. A surgeon performed the procedures, noting that a superficial bowel injury had occurred, and she was discharged.

The next morning, she called the ObGyn's office to report abdominal pain; he did not ask her to come to the office. She died 2 days later.

ESTATE'S CLAIM The ObGyn should not have agreed to discharge her, particularly because the surgeon had noticed the bowel injury. The ObGyn should have examined her when she called to report abdominal pain the morning after surgery.

PHYSICIAN'S DEFENSE It was proper to rely on the surgeon's judgment, particularly because abdominal surgery and evaluation of bowel injury were not within the ObGyn's expertise. Abdominal pain 1 or 2 days after abdominal surgery is insufficient reason to suspect bowel perforation or evaluation. The ObGyn called the woman two times later that day, and, based on her description, believed that she was improving.

VERDICT A Virginia defense verdict was returned.