Was maternal tuberculosis linked to infant brain damage?

New York County (NY) Supreme Court

A pregnant woman diagnosed with tuberculosis was prescribed a course of antibiotics for 3 months. After the patient developed a skin rash at 6 months' gestation, the medication was discontinued.

Although the neonate appeared normal at birth, at the age of 6 months it developed tuberculosis that led to meningitis, cerebral palsy, and brain encephalopathy.

The mother sued, claiming that the physician did not treat her tuberculosis within the standard of care and that her child, who was 17 years old at trial, was not properly tested for tuberculosis. In addition, she noted that the infant's medical records contained no mention of her tuberculosis.

The physician argued that the mother may not have had tuberculosis during her pregnancy and claimed that it was acceptable to stop treatment once she developed a rash. The doctor added that the mother took a trip to the Dominican Republic when the child was 4 months old and noted it was likely there that the child contracted the disease.

■ The jury awarded the plaintiff $24.5 million. A posttrial motion was pending.

Surgical towel left in patient during hysterectomy

Undisclosed County (Va) Circuit Court

During an abdominal hysterectomy, a surgeon placed surgical towels soaked in warm saline between a 42-year-old patient's bowels and the blades of a self-retaining retractor. Following surgery, the woman returned home without any problems.

Several weeks later, the patient experienced pain and cramping. A diagnostic workup was conducted, along with abdominal exploratory surgery. A 12-cm mass, later identified as a surgical towel, was discovered attached to the anterior abdominal wall.

In suing, the patient claimed the operating room staff was negligent in failing to count the surgical towels following the procedure.

The physician contended that he had inquired about the towel count and the nurses had accounted for all the towels used. The nurses argued that counting surgical towels is not routine, since towels are not designed to be placed inside an incision. Unlike surgical sponges, surgical towels do not contain a radiopaque thread or tape; as a result, they are indiscernible by x-ray if a count is incorrect.

■ The case settled for $100,000.

Improper tube placement blamed for hypoxic insult

North Carolina Superior Court

Upon presenting to a hospital with contractions 3 to 5 minutes apart, a gravida was placed on electronic fetal monitoring. The Ob/Gyn determined she was 1 cm dilated and 50% effaced, with the fetus at minus-2 station.

Following this examination, the woman's contractions became less frequent. The fetal-heart-rate tracing was not formally reactive. Despite the patient's protests, the Ob/Gyn recommended she go home.

About 6 hours later the woman returned to the hospital, again with contractions 3 to 5 minutes apart. She delivered 20 minutes after her arrival. Although thick meconium was present, endotracheal suctioning was not performed. The infant demonstrated no spontaneous respirations or movements and was

transferred to the neonatal intensive care unit (NICU). Episodes of bradycardia occurred, followed by blank, unresponsive stares. The newborn was diagnosed with diffuse hypoxic insult.

Medical records failed to indicate who rendered care to the infant for 20 minutes after the neonate was removed from the delivery room. A respiratory therapy note stated that the baby was intubated prior to admission to the NICU, but indicated the tube had dislodged during transport.

The infant was reintubated 10 minutes after NICU admission. However, a chest x-ray performed 12 minutes later showed that the endotracheal tube was placed down the right mainstream bronchus; it also revealed that the left lung had collapsed. Records indicated that the endotracheal tube was not repositioned immediately and that needle aspiration to correct the pneuomthorax was not performed until after the endotracheal tube was replaced.

- The case settled for $1,225,000.

Was atypical preeclampsia diagnosed too late?

Pecos County (Tex) District Court

A 31-year-old woman at 30 weeks' gestation presented to a hospital with abdominal pain and normal blood pressure. Emergency room personnel called the obstetrician at home, at which time the physician ordered a urinalysis.

Test results showed elevated protein, bacteria, and white blood cells. The obstetrician diagnosed a urinary tract infection, prescribed oral antibiotics, and advised the patient to return the next morning.

As she was leaving the hospital, the woman suffered a seizure and was rushed back to the emergency room. The obstetrician came to the hospital, diagnosed acute eclampsia, and treated her with magnesium sulfate. Moments later, she suffered a grand mal seizure.

The doctor performed an emergency cesarean section. The premature infant was transferred to another hospital. During and after the procedure, the woman suffered increased hemorrhaging. She died the following day.

In suing, the family claimed that the doctor should have come to the hospital upon the woman's admission. Had he done so, he would have diagnosed preeclampsia and treated the condition immediately.

The doctor argued that the patient's initial visit did not suggest preeclampsia. Further, he claimed the woman had developed a rare and rapidly developing form of preeclampsia that would have resulted in her death regardless of the time of diagnosis.

- The jury returned a verdict for the defense.

Did delayed cesarean result in brain injury?

Cook County (Ill) Circuit Court

Presenting with irregular contractions, a woman was admitted to the hospital. A fetal heart monitor was placed and nurses monitored her throughout the day. At 3:30 PM, the fetal heart rate began to decelerate.

At 8:10 PM, the obstetrician called the nurses; he was told that the mother was not in labor and that fetal heart tones were normal. He ordered the fetal monitor discontinued.

The following morning, the obstetrician visited the patient, who had not been seen by a physician since her admission. Following this examination, he delivered the infant via cesarean. At birth, the infant had low Apgar scores, no breathing, cyanosis, and hypoxic ischemia. The child suffers from severe cerebral palsy, mental retardation, and spastic quadriplegia.

In suing, the mother claimed that hospital staff failed to alert the doctor to the fetal heart rate decelerations. She also contended that the doctor should have performed the cesarean earlier.

The hospital maintained that the nursing staff treated the patient appropriately and relayed relevant information to the doctor.

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Further, the monitor showed variable decelerations, indicative of umbilical cord compression, not uteroplacental insufficiency. The hospital claimed the infant's brain injury occurred 24 to 72 hours prior to the mother's admission.

■ The jury awarded the plaintiff $20.25 million from the hospital, but returned a defense verdict for the defendant obstetrician. A high/low agreement reached during deliberations yielded $19 million from both the hospital and physician.

Stress, vertical scar blamed on misdiagnosed pregnancy

Nassau County (NY) Supreme Court

A 25-year-old woman at 16 weeks' gestation presented to a perinatology clinic for a routine sonogram. The perinatologist reading the sonogram detected signs of an abdominal pregnancy and alerted the patient's physician. The perinatologist referred the woman to the hospital for an emergency exploratory laparatomy to remove the pregnancy.

During the procedure, only a normal intrauterine pregnancy was found. The infant was later delivered successfully at term via cesarean section.

The woman sued, claiming that the operating physician relied on a faxed report for the diagnosis. She also cited undue emotional stress during her pregnancy, as well as the unnecessary 6-inch vertical scar on her abdomen.

The physician argued that, based on the perinatologist's diagnosis, surgery was justified.

■ The jury returned a defense verdict. A $75,000 pretrial settlement was reached with the perinatologist. ■

The cases presented here were compiled by Lewis L. Laska, editor of Medical Malpractice Verdicts, Settlements & Experts. *While there are instances when the available information is incomplete, these cases represent the types of clinical situations that typically result in litigation.*